

# U.S. Abortion Laws in Global Context

## Factsheet

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On June 24, 2022, the U.S. Supreme Court issued a decision in *Dobbs v. Jackson Women’s Health Organization*,<sup>1</sup> overturning *Roe v. Wade*<sup>2</sup> and *Planned Parenthood v. Casey*<sup>3</sup> and dismantling 50 years of precedent protecting the constitutional right to abortion in the United States. Since then, an onslaught of abortions bans and other restrictions have gone into effect in states throughout the U.S. This transformation of the landscape on abortion legality throughout the country puts the United States in sharp contrast to the global trend of liberalization of abortion laws and enhanced protections for abortion rights. This fact sheet provides a detailed analysis of how laws on abortion in the U.S. compare globally.

### ***Dobbs v. Jackson Women’s Health Organization* undid federal constitutional protections for abortion in the U.S.**

At issue in *Dobbs v. Jackson Women’s Health Organization* was the constitutionality of a Mississippi law banning abortion after 15 weeks of pregnancy. The challenge was brought by what was at the time the last remaining abortion clinic in the state of Mississippi.

In its decision in the case, the U.S. Supreme Court upheld the Mississippi law and explicitly overruled *Roe v. Wade* and *Planned Parenthood v. Casey*. The decision eliminates all federal (national level) constitutional protections for abortion and announces that, moving forward, all abortion laws and regulations are to be assessed under the most lenient level of judicial scrutiny, “rational basis.” Under that standard, abortion restrictions are presumed valid and will be upheld as long as they are rationally related to a “legitimate state interest.”

### **Half of U.S. states are currently poised to ban abortion**

While the decision itself does not outlaw abortion in the United States, by taking away the federal constitutional right to abortion, it allows individual states to severely restrict or ban abortion if they choose to.<sup>4</sup> Currently, the Center’s research (see “[After Roe Fell](#)”) estimates that 26 out of the 50 U.S. states will act to ban abortion. Indeed, in the immediate aftermath of the Court’s decision, states wasted no time seeking to enact and enforce abortion bans. Abortion is currently criminally banned from the point of conception, with extremely limited exceptions, in a total of at least 13 states, and in several additional states at other points very early in pregnancy.

The impact of this ruling falls hardest on people who already face discriminatory obstacles to health care—particularly Black, Indigenous, and other people of color, people with disabilities, people in rural areas, young people, undocumented people, and those having difficulty making ends meet.<sup>5</sup> With state bans going into effect and clinics shutting down, in many instances people seeking abortion in the United States must now travel across multiple state lines to reach a clinic, which exacerbates the hardships many already experience.<sup>6</sup> For many, the barriers to travel will simply be too high.

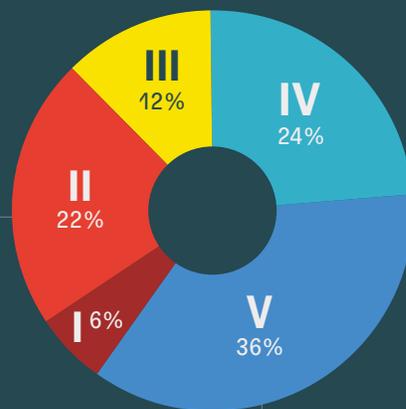
Abortion bans and restrictions severely impact people’s ability to access the full range of reproductive healthcare, regardless of their desired pregnancy outcome. This includes fertility care, care for miscarriage management, and care needed for pregnancy complications. By targeting providers, the laws sow fear and confusion, driving healthcare professionals to delay or refuse necessary, appropriate treatment because of fear of prosecution and putting patients at grave risk.

GLOBAL ABORTION LAWS

40% of women of reproductive age live in countries with restrictive abortion laws

60% live in countries where abortion is broadly permitted

- I PROHIBITED ALTOGETHER
- II TO SAVE THE WOMAN'S LIFE
- III TO PRESERVE HEALTH
- IV BROAD SOCIAL OR ECONOMIC GROUNDS
- V ON REQUEST (GESTATIONAL LIMITS VARY)



U.S. states passing restrictive abortion laws are now in Category II -- meaning these laws are among some of the most restrictive worldwide.

Prior to *Dobbs*, all U.S. states fell within Category V, the same category as the vast majority of Western democracies.

Current as of August 9, 2022  
Source: CRR, *World Abortion Laws Map*

Although it is medically safe for people to end their pregnancies at home with abortion pills, it is not without legal risk. Even before *Dobbs* opened the floodgates to criminalizing abortion, many people in the U.S. -- but disproportionately Black, Indigenous, and other people of color and immigrant women, and people experiencing poverty -- were subject to the misuse of criminal prosecution or other punitive legal action because of their pregnancy or an outcome of their pregnancy.<sup>7</sup> The loss of constitutional protection for abortion dramatically increases the risk of criminal prosecutions among these communities already disproportionately targeted.

In addition, the Court's decision overruling *Roe* threatens U.S. constitutional liberty rights beyond abortion, including the right to contraception, to sexual intimacy, and to marry a person of the same sex or a different race.<sup>8</sup>

U.S. regression on abortion rights has been widely condemned as a violation of human rights. Responding to *Dobbs v. Jackson Women's Health Organization*, UN High Commissioner for Human Rights Michelle Bachelet reiterated the substantial human rights protections for abortion and recognized the impact that the decision will have on the fundamental rights of millions within the United

States, particularly people with low incomes and people belonging to racial and ethnic minorities.<sup>9</sup> UN independent human rights experts, including the UN Working Group on Discrimination Against Women and Girls, the UN Special Rapporteur on Health, and the UN Special Rapporteur on Violence Against Women, similarly denounced the decision.<sup>10</sup> The UN Committee on the Elimination of Racial Discrimination (CERD Committee) noted deep concerns with the decision and recommended that the United States address the disparate impact that it will have on racial and ethnic minorities, Indigenous women, and those with low incomes.<sup>11</sup>

**Abortion bans being enacted in the U.S. are among the harshest in the world**

The bans that are being considered and enacted in the U.S. look like those that are in place in some of the most restrictive regimes in the world. Although a 15-week ban was at issue in *Dobbs*, now that *Roe* has been overturned, the laws being passed in states throughout the U.S. are far more restrictive.

As noted above, abortion is now criminally banned from the point of conception, with extremely limited exceptions, in over a dozen U.S. states, and in several additional states at other points very early in pregnancy. And this is, of course, just the beginning. Ultimately, twenty-six states will likely ban abortion. Worldwide, over 60% of women of reproductive age live in countries where abortion is broadly legal. Since many of the laws being enacted across the U.S. only permit abortion where there is a risk of death or severe physical medical emergency, nearly three-quarters of women of reproductive

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age worldwide live in countries with more liberal abortion laws than those currently being considered and enacted in restrictive U.S. states.

For example, even in relatively restrictive contexts outside the U.S., abortion is still permitted where there is a risk to the person's health, which is often either explicitly defined to include mental health or written broadly enough to afford providers discretion in determining what constitutes a risk to health. Conversely, bans being passed in restrictive U.S. states generally only provide exceptions for life-threatening circumstances, while also failing to provide clear guidance to health professionals on what satisfies the exception. Already there are numerous reported accounts of physicians and hospitals denying or delaying needed emergency care for fear of breaking state law.<sup>12</sup> Laws in other countries permitting abortion where there is a threat to the person's health, while still restrictive in nature, are more expansive than those being enacted across the U.S.

Indeed, the restrictive laws being passed in the U.S. are more similar to laws in countries such as Uganda, Tanzania, Brazil, and Guatemala – all places where the Center for Reproductive Rights is actively working to address the harmful effects of restrictive abortion laws. In these countries, restrictive abortion laws have not reduced abortion rates, but instead have required people seeking care to resort to clandestine and unsafe abortions, and led to the harassment, arrest, and imprisonment of women and health care providers who are accused of violating the restrictive abortion laws.

For example:

- In **Uganda**, where abortion is only permitted to preserve the person's

life, the criminalization of abortion has prevented health workers from providing safe abortion services – even in the narrow circumstances where abortion is legal – out of fear of prosecution and harassment.<sup>13</sup>

- In **Tanzania**, the extremely narrow grounds under which abortion is legal and the high criminal penalties for illegal abortions creates a culture of fear where people avoid seeking abortion services even when they might legally qualify.<sup>14</sup> In the same way, the lack of clarity leads to health care providers interpreting the law restrictively, denying abortion services to people who would have legally qualified for them.
- In **Brazil**, more than 200 women die each year from unsafe abortion.<sup>15</sup> In the past few years, a series of police raids on clandestine clinics have forced abortion providers even further underground than they were before— frequently putting those who seek out abortion services in extreme danger.<sup>16</sup>
- In **Guatemala**, where abortion is only permitted to preserve the person's life, lack of access to safe abortion services leads to hospitalization of 20,000 women each year.<sup>17</sup> Further, unsafe abortion constitutes one of the principal causes of death among adolescents in Guatemala.<sup>18</sup>

People experiencing poverty are disproportionately impacted because they lack the resources to pay for abortions in private clinics or travel abroad for safe abortion services.<sup>19</sup> Human rights bodies and experts have repeatedly condemned these highly restrictive laws as violating a range of human rights, including the rights to life,<sup>20</sup> health,<sup>21</sup> and equality and non-discrimination.<sup>22</sup>

## ABORTION LAW TRENDS

The U.S. is an outlier in restricting the legality of abortion. Only four countries have removed legal grounds for abortion since 1994, while 59 countries have liberalized their abortion laws to expand the grounds for legal abortion.



Current as of September 13, 2022  
Source: CRR, *World Abortion Laws Map*

### New U.S. abortion laws are more restrictive than those in Europe

Current laws being passed in the United States are also dramatically out of sync with European abortion laws, which generally permit abortion on request or on broad social and economic grounds. According to the analysis by a group of European Legal Scholars appearing as amicus in *Dobbs v. Jackson Women's Health Organization*, abortion is permitted through at least 22 weeks of pregnancy in 37 of the 46 member states in the Council of Europe, and through 18-21 weeks in another three countries, either on request, on broad socioeconomic grounds, or based on the health of the pregnant person (using criterion that does not entail a risk to the person's life).

For example:

- > In **Denmark**, after 12 weeks of pregnancy, Danish law provides flexible exceptions for physical and mental health, taking into account the burden on the pregnant person, and referencing social and economic factors (including the pregnant person's interests, household, age, occupation, housing, and income).<sup>23</sup>

- > In **France**, after 16 weeks of pregnancy, French law permits abortion at any point of the pregnancy if (a) pursuit of said pregnancy severely endangers the woman's health (secondary sources confirm that this category includes both physical and mental health), or if (b) there is a high probability that the newborn will suffer from a particularly severe and incurable condition ("termination of pregnancy for medical cause").<sup>24</sup>
- > In **Great Britain**, pregnant people can access abortion until 24 weeks of pregnancy if continuation of the pregnancy involves risk "of injury to physical or mental health" of the patient or any of her existing children, and after 24 weeks in certain circumstances; abortion care in Great Britain is offered as part of the National Health Service's broader reproductive healthcare coverage (along with contraceptive access).<sup>25</sup>
- > In **Germany**, the law specifically identifies the pregnant woman as the person who can determine whether her circumstances meet the grounds for an abortion between 12 – 22 weeks. Abortion is permitted on request up to 12 weeks gestation, but between 12 – 22 weeks gestation, abortion is permitted

when *from the woman's point of view* it is medically necessary to avert a grave injury to her physical or mental health or danger to her life, taking into account her "present and future circumstances."<sup>26</sup>

- > In **Switzerland**, abortion is permitted on request up to 12 weeks gestation. After 12 weeks, abortion is permitted in cases where the life or physical or mental health of the pregnant person is at risk. The law states that abortion is permitted where, "in the judgment of a physician, [abortion is] necessary in order to be able to prevent the pregnant woman from sustaining serious physical injury or serious psychological distress. The risk must be greater the more advanced the pregnancy is." [unofficial English translation]<sup>27</sup>

### The U.S. is regressing on abortion while the rest of the world liberalizes

The Court's reversal of *Roe* and undoing of federal constitutional protections for abortion is a profound retrogression of a well-established and fundamental right and counter to the broader global context of liberalization of abortion laws.

In the past 25 years, nearly 60 countries have liberalized their laws to expand the grounds under which abortion is legal. This includes 26 countries that have reformed their laws to permit abortion on request. By contrast, the U.S. is one of only four countries that have removed legal grounds for abortion during the same timeframe. The other three countries are El Salvador, Nicaragua, and Poland.

Recent liberalization of abortion laws in Latin America and Europe are particularly instructive.

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### Latin America's Green Wave

In Latin America, the feminist Green Wave movement has been successful in advocating for the liberalization of abortion in Colombia, Mexico, and Argentina.

- In 2022, the Colombia Constitutional Court issued a ruling legalizing abortion up to 24 weeks of gestation and thereafter on specific grounds, including when the person's life or health is at risk, when the fetus is not viable, and in cases of rape or incest. Previously, abortion was only permitted in Colombia on specific grounds. The Court further ordered the government to enact a comprehensive public policy to protect the dignity and rights of pregnant people, including dissemination of accurate information, elimination of all obstacles to the exercise of sexual and reproductive rights, and the development of education programs and sexual and reproductive health.
- In 2021, the Mexican Supreme Court issued a ruling recognizing that denying women the right to safe and legal abortion is contrary to the right to reproductive autonomy—which the court found is a right protected under the Constitution. The ruling requires states to permit abortion early in pregnancy and ensure it is available free of charge.
- In 2020, Argentina enacted a law permitting abortion during the first 14 weeks of pregnancy. Previously, abortion was only permitted in cases of rape or incest or to save the pregnant person's life. The law also makes abortion free of charge in public health facilities and requires providers to protect people seeking abortion from “illegitimate interference” by third parties.

### Liberalization in Europe

In Europe, the overwhelming trend to liberalize abortion laws is evident from significant reforms to remove abortion bans, reform restrictive laws, and remove barriers. Over the past five years alone many European countries have adopted important legal reforms that have ensured stronger protection for individuals' decision making and access to abortion care.

- Cyprus, Iceland, Ireland, Gibraltar, Northern Ireland, and San Marino have all removed laws that banned abortion and liberalized highly restrictive laws. Each of these countries has enacted laws that enable people to access abortion care.
- Other European countries that have long allowed abortion are increasingly passing legal reforms to further ease access to abortion care and remove remaining barriers. For example, in recent years Belgium, France, Germany, North Macedonia, and the United Kingdom have introduced important reforms and removed barriers. These have included removal of criminal penalties related to abortion care and information, expansion of time limits, and removal of medically unnecessary barriers such as waiting periods. Moves are also underway to make telemedicine for early medication abortion legal and to allow people to self-administer abortion medication.
- In May and June 2022, a number of major European jurisdictions enacted important changes to remove barriers to abortion access. Germany removed restrictions on abortion information provision, while both the Netherlands and France eradicated mandatory waiting periods. Legislation is pending adoption in Spain that will greatly

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## The effects of restrictive abortion laws in the U.S. are compounded by the lack of health and social welfare protections common in other high-income countries across the globe.

improve access to abortion by removing mandatory waiting periods and reducing third-party authorization requirements, among other things.

In June 2022, the European Parliament adopted a resolution calling for the right to abortion to be enshrined in the EU Charter of Fundamental Rights.

Following the *Dobbs* decision, lawmakers in at least five European countries - Belgium, Denmark, Finland, France, and Sweden - are now discussing concrete national reforms to strengthen protection and recognition for abortion rights in Europe. Specifically, in Belgium, Denmark, France, and Sweden the focus is on securing explicit abortion rights protection in national constitutions. In Finland, the focus is on legislative reform to broaden entitlements to abortion and remove barriers.

Countries in other regions have also responded to the *Dobbs* decision by moving to increase abortion access. For example, soon after the decision was issued, the president of Sierra Leone voiced his support for a bill to liberalize its highly restrictive abortion law. This bill is expected to soon pass in Parliament and be enacted into law. Israel also recently eliminated several procedural barriers to accessing safe and legal abortions.

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### Lack of health and social welfare protections in the U.S. compound the impacts of restrictive abortion laws

Thanks to proactive, effective policies and practices, including subsidized or fully funded abortion services, pregnant people in other countries have greater access than pregnant people in the United States to legal abortion services earlier

in their pregnancies, and greater social supports for caring for their families:

- > Many countries have either universal health care or mandatory health insurance programs that create far greater access to health services, including abortion care. [A recent study](#) surveying public funding for abortion in 80 countries shows how the U.S. is an outlier in this regard.
- > Other countries also have much stronger policies in place for pregnancy prevention, including subsidizing the cost of contraception, making oral contraceptives available over-the-counter, and ensuring access to comprehensive sexuality education. Indeed, birth control pills are available over the counter in over 100 countries<sup>28</sup>
- > Other countries provide significantly more support to people who do decide to become parents. The United States is the only high-income country in the world, and one of only four globally, that does not offer paid family leave at the national level.<sup>29</sup>

For up-to-date information on the legal status of abortion in states throughout the U.S., visit [After Roe Fell: Abortion Laws by State](#). For more information on the legal status of abortion worldwide, visit the [World Abortion Laws Map](#).

# CENTER *for* REPRODUCTIVE RIGHTS

## Endnotes

- 1 Dobbs v. Jackson Women’s Health Org., No. 19-1392, 2022 WL 2276808 (U.S. June 24, 2022) (majority opinion).
- 2 Roe v. Wade, 410 U.S. 113 (1973).
- 3 Planned Parenthood of S.E. Pennsylvania v. Casey, 505 U.S. 833 (1992).
- 4 Although the federal constitution no longer protects abortion, individual state constitutions may provide some limits on a state’s ability to ban abortion. CENTER FOR REPRODUCTIVE RIGHTS, STATE CONSTITUTIONS AND ABORTION RIGHTS (2022), available at <https://reproductiverights.org/wp-content/uploads/2022/07/State-Constitutions-Report-July-2022.pdf>.
- 5 CENTER FOR REPRODUCTIVE RIGHTS, THE CONSTITUTIONAL RIGHT TO REPRODUCTIVE AUTONOMY: REALIZING THE PROMISE OF THE 14TH AMENDMENT (2022), available at <https://reproductiverights.org/wp-content/uploads/2022/07/Final-14th-Amendment-Report-7.26.22.pdf>.
- 6 See Br. of Economists as Amici Curiae in Support of Respondents, Dobbs v. Jackson Women’s Health Org., No. 19-1392 (U.S. Sept. 20, 2021); Br. of Abortion Funds & Practical Support Orgs. as Amici Curiae in Support of Respondents, Dobbs v. Jackson Women’s Health Org., No. 19-1392 (U.S. Sept. 20, 2021); Br. of California Women’s Law Ctr. as Amici Curiae in Support of Respondents, Dobbs v. Jackson Women’s Health Org., No. 19-1392 (U.S. Sept. 20, 2021).
- 7 In the vast majority of cases, criminal prosecutions following an abortion or miscarriage take place without legal authority. See NATIONAL ADVOCATES FOR PREGNANT WOMEN, ARRESTS AND PROSECUTIONS OF PREGNANT WOMEN, 1973-2020, (Sept. 18, 2021), available at <https://www.nationaladvocatesforpregnantwomen.org/arrests-and-prosecutions-of-pregnant-women-1973-2020/>; See also Lynn M. Paltrow & Jeanne Flavin, *Arrests of and Forced Interventions on Pregnant Women in the United States, 1973–2005: Implications for Women’s Legal Status and Public Health*, 38 J. HEALTH. POL., POL’Y, & L. 299 (2013). Prosecutors use a variety of laws, from criminal child endangerment laws, to feticide laws, to antiquated laws criminalizing abortion, to prosecute people who have ended or lost a pregnancy or for other actions or omissions during a pregnancy, including people struggling with substance use; Br. Of Economists as Amici Curiae, *supra* note 6.
- 8 CENTER FOR REPRODUCTIVE RIGHTS, *supra* note 5; See also CENTER FOR REPRODUCTIVE RIGHTS, ROE AND INTERSECTIONAL LIBERTY DOCTRINE (2018), available at <https://reproductiverights.org/wp-content/uploads/2020/12/Liberty-Roe-Timeline-spread-for-print.pdf>.
- 9 Michelle Bachelet, Comment by UN High Commissioner for Human Rights Michelle Bachelet on US Supreme Court Ruling on Dobbs v. Jackson Women’s Health Organization (June 24, 2022), <https://www.ohchr.org/en/statements/2022/06/bachelet-us-ruling-dobbs-v-jackson-womens-health-organization>.
- 10 Working Group on Discrimination Against Women and Girls, Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health & Special Rapporteur on Violence Against Women, Its Causes and Consequences, Joint Web Statement by UN Human Rights Experts on Supreme Court Decision to Strike Down Roe v. Wade (June 24, 2022), <https://www.ohchr.org/en/statements/2022/06/joint-web-statement-un-human-rights-experts-supreme-court-decision-strike-down>.
- 11 Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined tenth to twelfth reports of the United States of America*, paras. 35-36, U.N. Doc. CERD/C/USA/CO/10-12 (2022).
- 12 While many of these incidents have related to pregnant people experiencing complications, this has also included delays in emergency care for people suspected of being pregnant. See The United States of America v. The State of Idaho, No. 1:22-cv-329, (2022). See also Associated Press, *Texas Hospitals Delaying Care Over Violating Abortion Law*, PBS, (July 15, 2022), <https://www.pbs.org/newshour/nation/texas-hospitals-delaying-care-over-violating-abortion-law>; J. David Goodman & Azeen Ghorayshi, *Women Face Risks as Doctors Struggle With Medical Exceptions on Abortion*, New York Times, (July 20, 2022), <https://www.nytimes.com/2022/07/20/us/abortion-save-mothers-life.html>.
- 13 Center for Reproductive Rights & Center for Health, Human Rights, and Development, *Facing Uganda’s Law on Abortion: Experiences from Women & Service Providers*, (July 2016), at 1, available at <https://www.reproductiverights.org/sites/default/files/documents/Uganda-Abortion-Law-Experiences.pdf>.
- 14 Center for Reproductive Rights, *Lack of Safe Abortion Services: A Result of Restrictive Laws and Stigma* (Sep. 3, 2020), at 3, available at <https://reproductiverights.org/wp-content/uploads/2020/12/Lack-of-Safe-Abortion-Services.pdf>.
- 15 Monica Malta ET AL., ABORTION IN BRAZIL: THE CASE FOR WOMEN’S RIGHTS, LIVES, AND CHOICES, 411 THE LANCET e522 (2019).
- 16 See, e.g., Human Rights Watch, *Brazil’s Mornings After*, (Sep. 25, 2009), <https://www.hrw.org/news/2009/02/25/brazils-mornings-after>; Sophie Davies, *Faced with strict laws, Brazilian women keep abortions secret*, REUTERS, (May 25, 2016), <https://www.reuters.com/article/us-abortion-brazil-secrets/faced-with-strict-laws-brazilian-women-keep-abortions-secret-idUSKCN0YG1GP>.
- 17 INCIDEJOVEN and Guatemalan Association of Secular Humanists, *The Situation of Young Women in Guatemala: Alternative Report on the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women – CEDAW* (2017), at 3, [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/GTM/INT\\_CEDAW\\_NGO\\_GTM\\_29095\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/GTM/INT_CEDAW_NGO_GTM_29095_E.pdf).
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- 19 *Id.*
- 20 Human Rights Committee, *General Comment 36 on article 6 of the International Covenant on Civil and Political Rights, on the right to life*, para. 8, U.D. Doc. CCPR/C/GC/36 (2018).
- 21 Committee on the Elimination of Discrimination against Women, *L.C. v. Peru*, para. 8.15, U.N. Doc. CEDAW/C/50/D/22/2009 (2009).
- 22 Committee on Economic, Social, and Cultural Rights, *General Comment No. 22 on the right to sexual and reproductive health*, para. 34, U.N. Doc. E/C.12/GC/22 (2016).
- 23 Bekendtgørelse af lov om svangerskabsafbrydelse [Law on abortion] Act No. 350, (1973) amended by LBK No. 95 (2008).
- 24 Public Health Code, Article L.2213-1.
- 25 Abortion Act 1967, c. 87, s. 1.
- 26 Strafgesetzbuch [StGB] [Penal Code], § 218(a).
- 27 Article 119, Swiss Criminal Code of 21 December 1937 (Amended as of 1 January 2017).
- 28 Kerry Grens, *Most countries offer the Pill over-the-counter*, REUTERS, (Jan. 2, 2013), <https://www.reuters.com/article/us-birth-control-pill-idUSBRE9010FQ20130102>.
- 29 WORLD POLICY CENTER, IS PAID LEAVE AVAILABLE FOR MOTHERS OF INFANTS? (2020), available at <https://www.worldpolicycenter.org/policies/is-paid-leave-available-for-mothers-of-infants>.