

# ***Exploring the Inadequacy of Women's Protections in the U.S. from the Supreme Court's Judicial Decisions on Abortion***

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**Abstract:** The prevailing view that women should have the right to their reproductive choices has led to an indissoluble link between feminism and the right to have abortion. The focus of this paper is on the pressing issue of abortion rights controversy in the current protection of women in the United States. With the overturning of *Roe v. Wade*, there is an urgent need to clarify the debate surrounding abortion rights. The proposed approach to address the subject matter in this paper is to reassess the implications of the right to abortion. A discussion on the inadequate judicial protection afforded to women in abortion cases is required. The paper scrutinizes and evaluates pertinent cases and reviews on the topic, proposing that the *Dobbs* case will result in various undesirable outcomes. The paper proposes that female reproductive safety is under threat, as is their position in daily life, freedom of production and social status. The reversal of *Roe v. Wade* has had a detrimental impact on the progression of social and gender equality. The findings propose that the politicization of abortion should be reassessed in light of societal evolution when addressing social issues.

**Keywords:** female protection, abortion, legislation, gender inequality

## **1. Introduction**

It is necessary to clarify that the term 'abortion' within this paper specifically refers to the deliberate termination of pregnancy, rather than the spontaneous termination that may occur naturally. The debate over abortion rights in the United Kingdom has a longstanding history. Restrictions on abortion began to emerge in the mid-19th century when it became apparent that a growing number of married women were choosing to terminate their pregnancies, leading to concerns among more conservative members of society. The right to access abortion has remained a contentious issue ever since [1]. In this context, the decision in *Roe v. Wade* in 1973 represented a political victory for feminists in the abortion rights movement. The Supreme Court has ruled the Texas anti-abortion law unconstitutional and indicated that the right to abortion is a fundamental right. However, the outcome of the 2022 *Dobbs* case constituted a significant step backward for the movement. By delegating the power to regulate abortion to individual states, the decision undoubtedly set female progression in reverse. Abortion restrictions that were previously suspended in a conservative state following *Roe v. Wade* will now be reinstated. Nonetheless, both judgements were fraught with controversy. Opponents of the *Roe* case, like Forsythe, argued that it is questionable whether this judgement reflects the prevailing societal attitudes. Citing a 1975 survey, Forsythe highlighted that the majority

of Americans during that time only supported abortion in certain cases and during the early stages of pregnancy [2]. And the uproar over the Dobbs case has been widely debated. It could be argued that the abortion and anti-abortion debates have dominated the feminist movement in the United States for a prolonged period thereafter. Women's autonomy over their own bodies was restored. The debate between the two sides reached new heights after the Dobbs case, and the tension between the pro and con parties was evident. Attitudes towards abortion rights have become vastly different in different states. Feminist groups have argued that women's protection is still far from adequate, and that abortion is an important part of it.

## **2. Problems Existing in the Judicial Protection of American Women's Reproductive Rights**

### **2.1. Women's Reproductive Freedom Is Restricted**

The Dobbs ruling challenged previous legal precedent. Although such challenges have occurred before, this marks the first instance in which the US Supreme Court has restricted a citizen's right by overturning precedent. The judges provided varying rationales, with the most notable including a discourse on the fetus's human rights and an examination of constitutional justice. This section predominantly emphasised the human rights of the fetus and the entitlements of mothers.

Justice Amy Barrett, a devout Christian and strong opponent of abortion, has been a staunch advocate for the right to life of the unborn. In the Opinions of the Court written by Justice Samuel Alito, a quote states that "Abortion destroys what those decisions call 'potential life' and what the law at issue, in this case, regards as the life of an 'unborn human being'." The opinion highlights a divergence in interpretations towards the right to life of the foetus across different states. In the case of *Dobbs v. Jackson Women's Health Organization*, the 2018 Mississippi legislation viewed the foetus as an unborn human being. Abortion, under this ideology, would be considered an act of killing one person to save another [3].

This standpoint is open to debate. Conservative states tended to incorporate the judgement of this case as part of the affairs of everyday life after it came into force. The topic of discussion at present revolves around the statement that the foetus isn't a living being. However, it has been noted that the judgement does not clearly state whether the foetus has human rights, specifically the right to life. This lack of clarity indicates that the issue remains open to debate [4].

Different phrasing can also impact public opinion. Statistical evidence demonstrates reduced comprehension of abortion when 'child' is used to describe the unborn instead of the more precise term 'foetus'. Though one may argue that 'foetus' is a more accurate description of the unborn, it is generally difficult to assume shared traits between foetuses and children [5]. Scholars advocate for precise language to eliminate widespread misunderstandings.

This paper argues that the connotation of the concept of life is multifaceted and that restrictions on abortion as a means of protecting life are not convincing from various perspectives. A critical argument put forward by foetal human rights advocates is the harm claim, wherein they contend that death represents the most severe harm that can be inflicted upon any human being. Advocates also assert that the foetus is akin to the people of God and that it is unacceptable for them to be so vulnerable as to be harmed by abortion. This claim has been met with skepticism, as religious arguments for the foetus' right to life contain two irrationalities [6]. Since the foetus is hardly a conscious individual, it can be concluded that abortion during this period cannot be regarded as harming a conscious individual. This argument offers a fresh perspective on the ongoing discourse around human rights. Notably, the debate overlooks the role of the expectant mother, which is a crucial topic to consider.

Both sides of the argument have cited the Fourteenth Amendment as their primary foundation. Originally introduced in 1868, it was designed to address the issue of slavery after the Civil War.

Legal analysis of present circumstances often disregards the fact that human rights consist of a category that evolves significantly due to socioeconomic conditions. The discussion earlier highlights that the fetus fails to meet the standards for the subject of the right to life. While not explicitly stated, the current verdict evidently supports the fetus' right to life. It is disheartening to witness such disregard for human understanding of well-being. The right of women to make their own choices regarding reproductive matters is crucial. As early as 2008, Siegel argued that restrictions on abortion, supposedly imposed to protect human rights and dignity, in reality, violate the dignity of women [7]. Abortion restrictions have not been successful in preserving women's autonomy or alleviating the social causes of unwanted pregnancies. Furthermore, they have neglected reproductive freedom.

## 2.2. Women's Reproductive Security at Risk

The discussion surrounding the Dobbs case demonstrates that the matter is not merely a theoretical ethical or legal dilemma. This particular case, which returns the power to make abortion decisions to individual states, underscores the importance of interpreting and executing the ruling correctly for all women. One disconcerting point is that some states with conservative anti-abortion laws chose to halt them temporarily after the Roe decision, rather than abolishing them permanently. The legislation can be reinstated automatically, obviating the need for a legislative process once again, thereby increasing the likelihood of a rapid implementation.

The impact of abortion prohibition can be approximated by analyzing instances from anti-abortion states, where in 2013 Texas banned abortion after 20 weeks, resulting in a 10% reduction in the number of abortions [8]. The reduction is only expected to become more significant following the Dobbs case, and it would not be surprising to see this outcome. Long-term investigations have revealed that women who are denied an abortion by the authorities are more likely to experience poverty and have a lower quality of life after giving birth. An unprepared child could exacerbate their already precarious economic situation. For individuals residing in anti-abortion regions, women who are unable to access abortion services may resort to self-induced abortion methods like abortion pills instead of receiving supervision from physicians. Informal medical establishments might become visible to those seeking abortions. Campaigners contend that this poses a novel danger to women's health. The principles of economics demonstrate that an industry with a demand cannot be entirely eradicated.

It is concerning that decentralising abortion to the local level may result in increased injustices. There are ongoing discussions regarding how women can regain dependable abortion services. The example of Ireland can provide insight, as their experiences share a starting point with the United States. In 1983, Ireland adopted a bill recognising the right to life of the foetus, causing a surge in abortion trips to other parts of Europe [9]. Constitution safeguards citizens' freedom of movement, but it does not guarantee easy or equitable access to cross-state abortion trips. S. The economic situation presents another obstacle. The U. Cohort research into abortion in Massachusetts following the Dobbs case produced a troubling outcome. The results indicate that despite Massachusetts not sharing a border with any of the states with restrictive abortion laws, the rate of abortions has increased by 6.2% [10]. More concerning, however, is the rise in the proportion of abortions being funded by charitable organizations, which suggests that women of lower socio-economic status are struggling to access abortion services in other states and are relying solely on these charities. Not only does this display the United States' disregard for lower and middle-class citizens, but it also highlights the injustice of abortion services following the Dobbs case. The wealthy were more likely to obtain the same service as they could afford the expense of travelling across state lines. Meanwhile, the impoverished, who have an even greater need for the right to terminate an unplanned pregnancy, have been denied this crucial right by a single ruling. The verdict of the Dobbs case created a division not only among states that permit or restrict abortion but also among people based on the status of their

assets. The model divided women into those who can afford to travel interstate for abortions and those who cannot. Ironically, there is a greater need for the latter. Unwanted pregnancies have a more severe impact on the poor. This statement suggests the potential for further societal division.

Abortion travel is not beneficial for everyone, as it is only affordable for those in good financial standing. Kimport and Rasidjan conducted a thorough survey consisting of in-depth interviews with 30 individuals who had undergone an abortion trip. These participants were forced to experience stress in real time during their journey. Additionally, being required to explain the purpose of their trip in an unfamiliar destination further exacerbated their stress levels. The study found that the journey to obtain an abortion causes both economic strain and mental stress [101]. It is unnecessary for residents of these states to endure such a difficult journey when the truth is that not everyone can afford it.

Women with unplanned pregnancies in anti-abortion states are faced with an unfortunate situation and their prospects are not optimistic. Abortion constraints have compelled them to opt for less trustworthy means of abortion, such as self-administered abortion medications or unregulated healthcare facilities. Even travelling to other states to access abortion facilities, which are free from such constraints, is hindered by psychological distress and financial limitations.

### **2.3. Women's Socioeconomic Status Is Affected**

In the previous section of this paper, it was discussed that women's autonomy regarding their bodies and pregnancy planning is being undermined by the Dobbs case ruling, and unplanned pregnancies can significantly impact women. This includes not only their physical and mental wellbeing but also their socioeconomic circumstances. The implications of expanding abortion restrictions in situations where women's socio-economic conditions are unfavourable can be significant. However, implementing effective social welfare plans for women and legalising abortions may instead reduce the abortion rate.

This paper emphasises that restrictions on abortion are not simply a medical issue; instead, the reproductive function of women plays a crucial role in determining the conditions for reproduction in relation to women's social nature. Discussing abortion in isolation is a narrow approach. According to some experts, the invalidation of the Roe case could result in increased government monitoring of pregnant women's parenting decisions regarding their unborn child. Punitive actions may be taken to safeguard the fetus's right to life [12]. There is no doubt that the heightened and unjustifiable control endangers the social standing of women. Additionally, women who do not require abortions will also be impacted by such measures. These newly introduced provisions carry significance for all women.

The economic situation of unplanned pregnant women is under threat due to abortion restrictions, which have far-reaching impacts on both mothers and their children in future generations. Past studies have shown concerning results in similar scenarios. For instance, the example of Romania highlights the negative impact of abortion restrictions, which were introduced in the late 20th century. The results revealed that the unhealthy increase in fertility resulted in impoverishment for the subsequent generation of Romanian children. In 20th century Romania, as a developing nation, abortions were mainly performed by affluent city residents [13]. Prior to 2022 in the United States, abortion proved most beneficial to lower income individuals. It is believed that those facing unplanned pregnancies in unfavorable financial circumstances are at risk of impoverishing themselves and their children. Concerns raised by US economic data support this notion. Treasury Secretary Yellen expressed concern regarding the anti-abortion backlash, stating that an abortion ban would have an adverse economic impact on the US. During a Senate Banking Committee hearing, she cautioned that restricting women's reproductive rights could set back progress made by females for decades. The 1973 ruling enabled women to continue their academic pursuits, leading to increased income and better overall economic well-being for women. On the contrary, withholding access to

abortion for women raises their likelihood of living in poverty or requiring public aid. This has consequences for the welfare and earnings of subsequent generations. Secretary Yellen cautioned that curtailing abortion options may cause children to be raised in impoverished circumstances. Unwanted children could contribute to deteriorating economic conditions and fail to foster a favorable atmosphere for child development, potentially resulting in new social inequalities.

In this paper, the relationship between abortion rates and female protection at the state level is explored. According to Manninen, some European countries have led the way in achieving low abortion rates due to shared features such as robust social security and easy access to abortion [14]. In summary, this issue concerns women's right to choose. Allowing conservative states to restrict abortion without careful consideration would strip away a woman's right to self-determination. Leaving individuals in a deteriorated economic state. The heightened government control of female feticide also endangers the societal standing of all females. Furthermore, instances from European countries demonstrate that limiting abortion does not result in a significant decrease in abortion rates. The current trends in the UK are concerning, as they suggest a resurgence of conservative ideology.

### **3. Proposals for Improving Inadequate Judicial Protection of U.S. Women's Reproductive Rights**

The evolution of abortion policies in the United States was always at the forefront of controversy over the past 50 years, from nationwide legalisation to the return of states' autonomy in the matter. It analyses the numerous adverse consequences of this legal decision on the law, gender equality, and women's health. The paper concludes with recommendations for enhancing the inadequate judicial protection currently in place.

#### **3.1. The Right to Abortion as a Basic Human Right**

This paper proposes that the right to abortion should be considered a fundamental human right for women. The argument asserts that abortion is a component of women's basic human rights, and this belief should be promoted widely. Furthermore, the argument that the foetus should have the same human rights as women are refuted in this context. It is also considered unjustifiable for fetuses to be given protection under the 14th Constitutional Amendment. Expectant mothers have the right to plan the schedule of their own bodies, while bodily autonomy, as one of the crucial components of human rights, is protected by the 14th Constitutional Amendment. Consequently, the right to abortion is also a part of the right to bodily self-determination with no particular significance to it. Individuals are entitled to ascertain the safety of their bodies, including control over themselves, whereas embryos themselves should not have human rights.

#### **3.2. Judiciary Should Be Depoliticized**

The verdict on the Dobbs case eroded public confidence in the Supreme Court and compounded worries of a politicised judiciary. According to a pre-judgement Gallup survey, only 25% of those interviewed had "a lot of faith in the Supreme Court", a record low in nearly half a century of polling. The conservative justices also disregarded contemporary issues in their ruling. On the contrary, it was argued that the Rose case did not provide sufficient evidence to establish a close relationship between abortion and the tradition of the country. The most conservative individuals even cite the right to life of the foetus, which stems from religious beliefs. The fact that conservative and liberal justices aligned according to political lines in this case is concerning. Human rights are a complex issue with fluid societal connotations. Conservative judges base their judicial decisions on political views, which raises concerns about the validity of decisions interpreting outdated reasons. This article advocates for the depoliticisation of the judiciary and urges judges to consider current social developments when



interpreting the Constitution and its amendments. Abortion in the present day cannot be compared to that in the 1850s.

### 3.3. Emphasises the Promotion of Gender Equality

This paper asserts that the right to abortion plays a significant role in safeguarding women's rights and promoting gender equality by granting women autonomy over their bodies. One potential means of advancement was via the Equal Rights Amendment, an integral part of numerous state constitutions [15]. In light of dwindling national abortion protections, affirmative action amendments at the state level represent a critical avenue for securing local protections in swing states. The right to abortion is an important aspect of the affirmative action movement and holds promising potential. Public opinion within the state has contributed to increased awareness and promotion of feminism within constitutionalism. The United States demonstrates a stronger commitment to affirmative action compared to traditional capitalist countries like Britain and France. The United States did not experience a comparable era of feudalism to that of Britain and France, making it a vantage point for the global affirmative action movement. The fight for abortion rights entails gender equality, granting women and men reproductive freedom and control over their own bodies to the same extent as men. It also concerns equity between the affluent and the underprivileged, as evident in the discrepancy between safe abortion travels for the rich and unsafe ones for the poor. Pursuing legislation at the state level is a pragmatic approach towards achieving gender equality. Furthermore, it urges non-governmental organizations and businesses to facilitate the provision of abortion services for women in conservative states.

## 4. Conclusion

The article discusses the impact of the verdict in the 2022 case of *Dobbs v. Jackson Women's Health Organization*. The verdict, which overturned *Roe v. Wade* and allowed states to make decisions on abortion policy, particularly affects conservative states that have restrictive abortion laws. The article argues that the outcome of the *Dobbs* case neglects the protection of pregnant individuals and could jeopardise the socio-economic status of women's health. The Supreme Court's re-evaluation of the right to abortion may impede the progress of the gender equality movement and jeopardize the well-being of economically disadvantaged women. The Supreme Court's re-evaluation of the right to abortion may impede the progress of the gender equality movement and jeopardize the well-being of economically disadvantaged women. The paper suggests ways to enhance the situation on both a larger scale and an individual level. The Supreme Court's reevaluation of the right to abortion may impede the progress of the gender equality movement and jeopardize the well-being of economically disadvantaged women. This article analyses the potential ramifications of the ruling and highlights pressing concerns facing all women, particularly those residing in conservative states. The paper advocates for the Supreme Court to be depoliticized and for the reassessment of human rights enshrined in the Constitution. Ensuring safe and healthy abortion services is also crucial for protecting women's human rights. State affirmative action amendments provide individuals with another opportunity. However, the paper's limitations stem from the insufficient discussion of human rights and the need for more data to support women's socioeconomic status. The way forward on this topic could be a survey of public opinion and a clear evaluation of how the 14th Amendment might be interpreted.

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