



ABORTION IN THE USA

THE HUMAN RIGHTS CRISIS IN THE AFTERMATH OF DOBBS

EXECUTIVE SUMMARY



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SHEILA, MISSISSIPPI *Name changed for privacy purposes

Sheila* got pregnant when her hormonal birth control implant expired, and she could not afford a new one. She tried to get an abortion from the Jackson Women’s Health Organization in Mississippi, the month after *Dobbs* was decided, but the clinic had been forced to close. Sheila could not afford to travel out of state for an abortion. She later gave birth and brought her baby home, knowing she had no help with paying for childcare and that there was no way she could go back to work. ¹

For almost 50 years, the United States Supreme Court repeatedly affirmed that the US Constitution protects the right to access abortion. However, on 24 June 2022, in *Dobbs v. Jackson Women’s Health Organization*, the Supreme Court ruled that there is no such federal constitutional right, leaving the question of whether and how to regulate abortion to individual states.

Since the *Dobbs* decision, people of reproductive age across the country have faced ongoing, confusing changes to their ability to access abortion care. State abortion law and policy reforms have varied widely, with some states completely banning abortion, some protecting abortion care, and many falling somewhere in between.

This report shares the experiences of individuals impacted by abortion bans and restrictions on access to abortion across the United States. It details the severe risks to women’s health and lives that result, including the often-devastating impacts of lack of abortion access, documents the human rights impacted by the shifting legal, policy and practice landscape, and demands that urgent action be taken to address this crisis.

This report is based on in-depth interviews with individuals, their families, activists, advocates, public health experts, and health workers in key states that ban abortion – as well as with federal agency representatives and healthcare providers across the USA. It also reviews available medical and public health literature, news articles, and a 50-state comprehensive landscape analysis of abortion cases in litigation and media reports, with a focus on disparities in healthcare provision and outcomes and preventable deaths and complications.

¹ Laura Clawson, “Mississippi’s Culture Of Cruelty Shows Itself Again And Again Post-Dobbs,” Daily Kos, 20 August 2023, <https://www.dailykos.com/Stories/2023/8/20/2187206/-Mississippi-S-Culture-Of-Cruelty-Shows-Itself-Again-And-Again-Post-Dobbs>

SCOPE OF BANS AND RESTRICTIONS



KIM, MISSISSIPPI *Name changed for privacy purposes

Kim*, a 12-year-old Black girl, had been outside of the house making TikTok's when a man grabbed her, pulled her to the side of the house, and raped her. After finding out that her daughter was pregnant, Kim's mother filed a complaint with the police department. Mississippi's abortion ban contains some limited exceptions, including for rape victims. However, abortion remains difficult to access in these circumstances because even if someone files a police report, there are no clear guidelines on how to qualify for legal abortion in cases of sexual violence. Kim's mother did not even know that an exception for rape existed under the criminal abortion law. Abortion providers have also left the state, further limiting access. According to the New York Times, only two legal abortions have been provided in Mississippi since the abortion ban went into effect. Once Kim's pregnancy started to show, her mother kept her at home, and she finished sixth grade on her laptop. Kim is now a mother and has started 7th grade. Mississippi has high poverty rates, the second-highest maternal mortality rate in the country, and Black women are four times more likely than white women to die in childbirth.²

According to the Guttmacher Institute, an estimated 17.9 million women of reproductive age currently live in states where abortion has been completely banned.³ As this report is published, 14 states have total abortion bans in place regardless of gestational age: Alabama, Arkansas, Idaho, Indiana, Kentucky, Louisiana, Mississippi, Missouri, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, and West Virginia.⁴ Another seven states have imposed gestational limits much earlier than previously approved under *Roe v Wade*; three – Florida, Georgia, South Carolina – now refuse abortion after six weeks, a time when many women do not even know they are pregnant.

While most state bans allow for limited exceptions, such as in cases of severe risks to life or health, or cases of pregnancy caused by rape or incest, these exceptions are extremely difficult to access and rarely used.

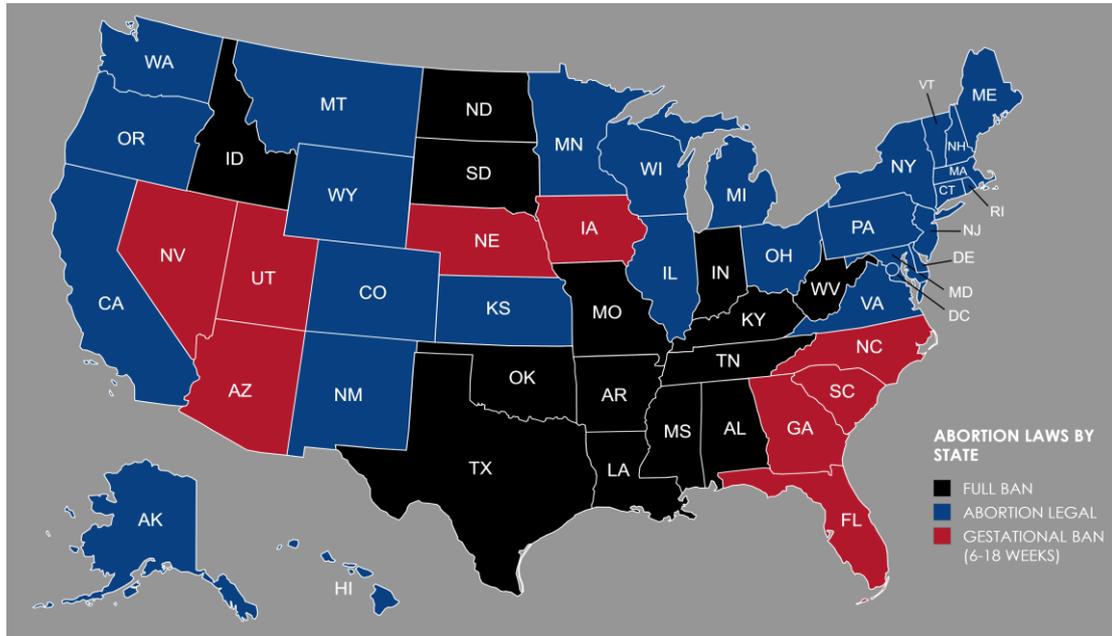
People in states with abortion bans or severe restrictions are often forced to delay their abortions as they search for willing healthcare providers in other states, or for ways to self-manage a termination. Many have no choice but to carry a pregnancy to term.

²Charlotte Alter, "She Wasn't Able To Get An Abortion. Now She's a Mom. Soon She'll Start 7th Grade," TIME, 14 August 2023, <https://time.com/6303701/a-rape-in-mississippi/>

³ Guttmacher Institute, *Interactive Map: Us Abortion Policies and Access After Roe*, 1 May 2024, [States.Guttmacher.Org/Policies/](https://states.guttmacher.org/policies/) The Term "Women Of Reproductive Age" Encompassed Women Aged 15-49.

⁴ Allison McCann and Amy Schoenfeld Walker, "Tracking Abortion Bans Across The Country," The New York Times, 1 April 2024, <https://www.nytimes.com/interactive/2024/us/abortion-laws-roe-v-wade.html>; Guttmacher Institute, *Interactive Map: Us Abortion Policies And Access After Roe*, 1 May 2024, <https://states.guttmacher.org/policies/>

STATUS OF ABORTION BANS IN THE UNITED STATES AS OF JULY 25, 2024



This map represents data from the New York Times and KFF (formerly the Kaiser Family Foundation).⁵



ANONYMOUS, MISSISSIPPI

The parents of a teenage rape victim had to travel more than 500 miles to help their daughter obtain an abortion in Illinois. They found out that their daughter was pregnant three days beyond Mississippi's legal limit of six weeks. State law forced Mississippi's only abortion clinic, the Jackson Women's Health Organization, to close in July 2022. The family reached out to the OB-GYN who had delivered their daughter to see if he could help. The mother said, "it was the ugliest feeling having to explain to the doctor that delivered your child that she was raped, and then him having to tell you he can't do anything to help." The family had to travel more than seven hours to an abortion clinic in Illinois and pay \$1,595 for the abortion and almost \$500 for a hotel.⁶

⁵ Allison McCann and Amy Schoenfeld Walker, "Tracking Abortion Bans Across the Country," New York Times, last visited 29 July 2024, www.nytimes.com/interactive/2024/us/abortion-laws-roe-v-wade.html; KFF, *Policy Tracker: Exceptions to State Abortion Bans and Early Gestational Limits*, last updated 29 July 2024; www.kff.org/womens-health-policy/dashboard/exceptions-in-state-abortion-bans-and-early-gestational-limits/

⁶ Ashton Pittman, "Teen Mississippi Rape Victim Forced To Travel 500 Miles For Abortion, Report Says," Mississippi Free Press, 29 Nov. 2022; <https://www.Mississippifreepress.Org/Teen-Mississippi-Rape-Victim-Forced-To-Travel-500-Miles-For-Abortion-Report-Says/>

DENIAL OF ACCESS TO MEDICATION ABORTION

“I’m fortunate that the contacts I had were able to give me the pills for free because they normally cost upwards of \$500. I’m a student, working three jobs and paying rent, so I’m unsure how I would have made that work. I was nervous, but I’m one of the lucky ones.”

– Kaniya, Washington, DC⁷



Protestors gather in front of the US Supreme Court in March 2023 as the Court hears arguments on the regulation of abortion medication, © Amnesty International

Medication abortions using mifepristone and misoprostol have been a safe way to end a pregnancy in the US for over 20 years and accounted for 63% of abortions in 2023.⁸ Following the Supreme Court’s decision in *Dobbs*, access to abortion pills now depends upon the state in which an individual lives. It also depends on how much they can afford to pay for medication or to travel to another state to access an in-clinic medication abortion, and whether they can navigate the process of obtaining abortion pills via telemedicine or mail.

Barriers to accessing medication abortion disproportionately impact individuals who rely on pills to self-manage an abortion. These may be people who cannot afford in-clinic costs, or who would struggle to get to a clinic appointment due to disability, childcare responsibilities, and/or lack of paid time off. Or they might be people in violent or unsafe domestic situations who cannot risk having to explain their reason for

⁷ Amnesty International Interview with Kaniya, last name withheld, Washington, DC, 19 March 2024.

⁸ Guttmacher Institute, *Medication Abortions Accounted For 63% Of All Us Abortions In 2023, An Increase From 53% In 2020*, 19 March 2024; www.guttmacher.org/news-release/2024/medication-abortion-accounted-63-all-us-abortion-2023-increase-53-2020

travel. The lives of people dealing with such circumstances have been thrown into turmoil by the restrictions imposed by *Dobbs*.

CRIMINALIZATION OF ABORTION

“I was essentially navigating my healthcare through random internet searches. Even doing the searches made me nervous. I was scared that the state might be tracking our internet searches somehow. The fearmongering in Texas after *Dobbs* had a real impact on me. The case of a Texas woman being arrested and jailed for taking medication abortion pills was fresh in my mind...I was scared to call my doctor in case there was mandatory reporting. I was not sure what the law meant.”

- Interview with Taylor (second name withheld), TEXAS⁹

Since the *Dobbs* decision, various laws have been enacted at the state level to ban, restrict or criminalize abortion, the abortion seeker, those assisting abortion seekers, or physicians and healthcare workers treating the abortion seeker. These laws include centuries-old “zombie” statutes, which had been rendered largely irrelevant by *Roe v. Wade*,¹⁰ but were never repealed and can now be accessed again, as well as so-called “trigger laws” anticipating the overturn of *Roe*,¹¹ and laws enacted after the *Dobbs* decision.

Some state laws seek to accord “prenatal personhood” to a fetus, embryo or a fertilized egg. As a result, it is possible for a charge of “child endangerment”, “assault” or even “homicide” to be brought when a pregnancy ends due to complications or miscarriage, as well as following a planned abortion. Contingent on how current and proposed state legislation develops over the coming months, pregnant individuals, doctors and others who assist them may be subject to liability that could expose them to prosecution, incarceration, loss of professional licenses, or even the death penalty.¹²

⁹ Amnesty International Interview with Taylor, Last Name Withheld, San Antonio, TX, 20 January 2024.

¹⁰ Sarah Lehr, “The Legal Challenge Of Wisconsin’s 1849 Abortion Ban Is Awaiting Its Day In Court. Where Does The Case Stand?,” Wisconsin Public Radio, 30 September 2022, <http://www.Wpr.Org/Legal-Challenge-Wisconsin-1849-Abortion-Ban-Awaiting-Its-Day-Court-Where-Does-Case-Stand> (Quoting Wisconsin Attorney General Josh Kaul As Explaining That “[T]he Possibility Of Enforcement Is Out There Now[] . . . What That Has Meant Is That Planned Parenthood Is No Longer Providing Services In Those Three Counties. If We Get An Order Blocking Enforcement Of That Law, That Would Allow Them To Resume Services.”); Erica N. White Et Al., “Abortion Access Post-Dobbs Litigation Themes,” Network For Public Health Law, 4 November 2022, <https://www.networkforphl.org/resources/abortion-access-post-dobbs-litigation-themes/> (Describing Other Implied Repeal Challenges In West Virginia And Arizona.)

¹¹ Arkansas, Idaho, Kentucky, Louisiana, Mississippi, Missouri, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Utah, And Wyoming Had Trigger Laws In Place Prior To The Dobbs Decision. Elizabeth Nash & Isabel Guarnieri, *States Have Abortion Trigger Bans—Here’s What Happens When Roe Is Overturned*, Guttmacher Institute, 6 June 2022, <https://www.guttmacher.org/article/2022/06/13-states-have-abortion-trigger-bans-heres-what-happens-when-roe-overturned>

¹² Rebecca Shabad, “S.C. Republicans Propose Bill That Could Subject Women Who Have Abortions To The Death Penalty,” Nat’ L Broad . Co. News, 15 March 2023, <http://www.Nbcnews.Com/Politics/Politics-News/Sc-Republicans-Propose-Bill-Subject-Women-Abortions-Death-Penalty-Rcna75060> (“The South Carolina Prenatal Equal Protection Act Would ‘Ensure That An Unborn Child Who Is A Victim Of Homicide Is Afforded Equal Protection Under The Homicide Laws Of The State.’ . . . Under South Carolina Law, People Convicted Of Murder Can Face The Death Penalty Or A Minimum Of 30 Years In Prison.”).

FAILURE TO PROVIDE EMERGENCY MEDICAL CARE



LEYA, MISSOURI *Name changed for privacy purposes

Leya's water broke at 17 weeks of pregnancy, signaling that her fetus would not survive and that she was at risk of severe health complications. Despite her need for an emergency abortion, Missouri's unclear laws forced the hospital to deny her the procedure. The Kansas University Medical Center also turned her away, citing legal restrictions. Leya eventually traveled 300 miles to Illinois for her abortion, enduring physical pain during the journey. Federal investigators found both hospitals violated the Emergency Medical Treatment and Labor Act (EMTALA) by failing to stabilize Leya's health. US Department of Health and Human Services Secretary, Xavier Becerra, acknowledged the hospitals' wrongdoing, emphasizing that no patient should endure such trauma.¹³

Failing to allow pregnant individuals access to emergency medical care in states with abortion bans directly violates global norms and runs afoul of the US government's human rights obligations. Under international law and standards on the rights to life and health, states must guarantee immediate and unconditional treatment, without fear of criminal penalties or reprisals, of persons seeking emergency medical care – including if such care includes abortion or post-abortion care that is needed after an abortion.¹⁴

Abortion bans in states across the US have also created a conflict with federal law under the Emergency Medical Treatment and Labor Act (EMTALA), which provides that hospitals participating in Medicare must ensure public access to emergency services, screening, and stabilizing treatment or transfer to another hospital that can provide such treatment. In Jun 2024, the US Supreme Court dismissed a case involving Idaho's abortion ban which does not include exceptions to safeguard pregnant persons' health (including in cases of emergency medical treatment) but declined to rule on the merits of the case. In doing so, the court temporarily reinstated a lower court decision allowing emergency medical abortions to be performed in Idaho, but failed to clarify whether the federal law preempts state abortion bans.

Exceptions to abortion bans, which vary from state to state, may contain exceptions to prevent severe risks to the life or health of pregnant people and/or to prevent individuals made pregnant through rape or incest from being compelled to continue the pregnancies. But, in practice, legal exceptions to criminal abortion laws are difficult to enforce due to complicated requirements to use the exception or a lack of understanding of the law and clear guidelines on when and how to apply the exceptions—which ultimately impacts the provision of healthcare. Significantly, healthcare providers are placed in precarious situations where their fear of potential

¹³ Amnesty International Interview with Doctor, Name Withheld, Conducted Via Zoom, Indianapolis, IN, 21 Mar. 2024.

¹⁴ Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Report to The Human Rights Council (2016) (Un Doc. A/HRC/31/57).

criminal or administrative sanctions can impede their ability to provide the highest standard of medically-indicated care in line with their medical and legal obligations.

Unless these severe risks to the provision of emergency medical treatment are addressed, already high rates of maternal mortality in the United States will likely continue to increase over time.

DR. AMNA DERMISH, PLANNED PARENTHOOD



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“It felt like for the longest time that, every day I could show up to this clinic and see patients, I was winning. And then Dobbs just felt like it took that away. Every day, half the patients I would see I'd have to turn away.”

DISPARATE IMPACT OF ABORTION BANS AND RESTRICTIONS

State abortion bans and restrictions in nearly half of the United States are layered upon complex webs of inequity and discrimination in healthcare, education, housing and income. Systemic and structural racism have denied many people equal access to health insurance. They often lack access to contraception and other sexual and reproductive healthcare information and services, including prenatal and maternal healthcare services, as well as abortion care. Abortion bans and restrictions have compounded these issues even further adding to already elevated risks of forced births and maternal death.

Most US states with abortion bans are in the South¹⁵ where over 50% of the Black population and a third of American Indian and Alaska Natives (AIAN) reside.¹⁶ For Black women, these bans represent a denial of abortion care to a constituency who, due to longstanding discrimination and ongoing challenges accessing comprehensive reproductive healthcare, seek abortions at a higher rate than any other group, and are already suffering far higher rates of maternal mortality. For Indigenous women, *Dobbs* adds even more restrictions to what many had long experienced as effective bans on abortion due to pre-existing federal government restrictions on the Indian Health Service, on which many of them depend for their healthcare. Indigenous women also suffer some of the highest rates of rape across the country and thus are disproportionately impacted by denials of safe abortion care.

Additional barriers exist for many other communities in the United States, including undocumented immigrants, transgender people, individuals living in rural areas, or those living in poverty. Socio-economic barriers prevent many individuals from being able to travel out of state to seek abortion services. In addition, the long-term socio-economic impact of being forced to give birth will have long-term consequences.

LAURA MOLINAR, SUEÑOS SIN FRONTERAS



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“I think about that first trip to McAllen, Texas and working in the clinic, you know, with some of the volunteer physicians and hearing the stories from the women that we encountered who were pregnant, postpartum. And some of them

¹⁵ US States Banning Abortion In The South Include: AK AL, FL, GA, KY, LA, MS, NC, SC, TN, WV, TX, OK; Allison McCann and Amy Schoenfeld Walker, “Tracking Abortion Bans Across the Country,” New York Times, last visited 29 July 2024, <https://www.nytimes.com/interactive/2024/us/abortion-laws-roe-v-wade.html>

¹⁶ Latoya Hill, Samantha Artiga, Usha Ranji, Ivette Gomez And Nambia Ndugga, *What Are The Implications Of The Dobbs Ruling For Racial Disparities?*, KFF, 24 April 2024, <https://www.kff.org/womens-health-policy/issue-brief/what-are-the-implications-of-the-dobbs-ruling-for-racial-disparities/>

were about to give birth and just hearing their requests for things like emergency contraception because they had been sexually assaulted along their journeys and, you know, held captive by the cartels. And they didn't know whether or not they were pregnant. They were asking for things like emergency contraception, birth control. They were asking for STI testing. ... I was just like, this is a human right, ... this is a part of healthcare. You know, people are dying and being oppressed because they don't have access to these basic needs.”

PROLIFERATION OF FAKE ABORTION CLINICS



JENNIFER, OHIO

**Name changed for privacy purposes*

Jennifer* wanted to find out how many weeks pregnant she was because Ohio law banned abortions at six weeks. She had scheduled a scan at a facility that offered “abortion consultations” and free ultrasounds. Jennifer said, “A few things seemed a little off.” One counselor gave her prenatal vitamins, and another offered to pray for her. She was told that the ultrasound was not clear enough to date the pregnancy and that she would have to come back a week later. She was told that she was six weeks and three days pregnant at her next appointment. A one-week delay was the difference between a legal and illegal abortion in Ohio. Jennifer suspected that the clinic was not an abortion-friendly place and that it was a crisis pregnancy center, which are often religiously-affiliated organizations that try to convince women not to have an abortion. She decided she would take abortion pills from Aid Access, a European online service that supplies abortion pills to women in states where abortion is banned. Jennifer paid \$105 to order the pills and took them at home.¹⁷

Crisis Pregnancy Centers (CPCs), also known as Anti-Abortion Centers, Pregnancy Resource Centers and Pregnancy Care Centers, present a public health risk to pregnant people seeking medical, reproductive and obstetrics care across the United States. CPCs are found in all 50 states; according to the Crisis Pregnancy Center Map⁴, there are a total of 2,529 identified centers working to prevent abortion, push abstinence and religious-based education, and coerce patients to either parent or consider adoption.

Many CPCs are affiliated with national organizations which train and guide CPCs on deceptive tactics to lure pregnant people by mimicking medical facilities, offering free pregnancy tests, ultrasounds, and newborn essentials. Amnesty International has found that these centers endanger pregnant people by failing to provide comprehensive medical care, medically accurate information, and non-biased counseling on family

¹⁷Caroline Kitchener, “Pregnant And Desperate In Post- Roe America,” The Washington Post, 1 December 2022, <https://www.washingtonpost.com/politics/interactive/2022/pregnant-post-roe-america-abortion/>

planning options, such as abortion. Their practices can obstruct and delay medical care, including potentially lifesaving treatments.

Even though CPCs' practices have been deemed predatory and "unethical,"⁵ federal and state governments not only fail to regulate and investigate these organizations, but provide funding through grants, taxpayer funds, tax incentives and credits, which are contributing to their proliferation post-*Dobbs*.

VIOLATIONS OF HUMAN RIGHTS

By denting and restricting access to abortion and failing to ensure that abortion care is affordable and widely available, the United States is failing to comply with international human rights laws and standards to ensure pregnant individuals have equal access to abortion information services. Human rights that support the right to access abortion include the right to life, health, privacy, to seek, receive, and impart information, liberty and security, freedom from torture and other cruel, inhuman, and degrading treatment, and freedom from discrimination. Each of these rights are also enabling rights to the realization of the full range of human rights. Equal access to abortion is also critical in achieving gender, racial, and economic justice.

International human rights law and standards confirm that decisions about an individual's body are their own. Forcing someone to continue an unwanted pregnancy or to seek out an unsafe abortion is a **violation of their human rights**. Two years after the US Supreme court overturned *Roe v. Wade*, the human right to access abortion continues to be under attack in the United States. The *Dobbs* decision has resulted in a patchwork of devastating laws, with abortions now totally or near totally banned in 21 states across the country. This means women, girls, and others who can get pregnant are blocked from accessing abortion care.

The only way to stop this dangerous and discriminatory human rights failure and to ensure universal access to abortion in the US without the interference of politicians is through full federal protection of the right to abortion. This report aims to raise the profile of stories of people across the country whose human rights have been violated by state-level abortion bans and access restrictions. The United States must take swift action to address this human rights crisis as, every day, people's lives hang in the balance.

KEY RECOMMENDATIONS

- The US government must guarantee sexual and reproductive rights for all women, girls, and people who can become pregnant, including timely and effective access to abortion care by adopting an explicit law to protect the right to abortion.
- The US government should develop and distribute guidance to ensure access to accurate information on how to access abortion care, including with medication abortion at a clinic or as self-administered and to self-assess the success of the abortion, and where to seek post-abortion care in case of complications.

- The federal and state governments should ensure that abortion medication is available in all states, through both physician and non-physician medical professionals, telehealth, certified pharmacies, and mail.
- State governments must fully decriminalize abortion, which requires not only stopping punishment of pregnant people for their pregnancy outcomes, healthcare providers and others for obtaining, assisting with, or providing abortion services, but also removing abortion from criminal laws and all other punitive laws, policies and practices and refraining from adoption of further restrictions on or introducing new barriers to abortion.
- State governments must ensure equitable and affordable access to abortion for all people who need it without discrimination. States that do not currently include abortion in state Medicaid coverage should do so without limitations.
- The US government should make every effort to combat misinformation around abortion and to address abortion-related stigma, which are key barriers preventing pregnant people from having timely access to safe and high-quality healthcare.