NAVIGATING A POST-*DOBBS* ERA

Repercussions Faced by Marginalized Communities and the Future of Reproductive Justice

By Alyssa Mae Catipon Legaspi

In June 2022, the Supreme Court of the United States overturned *Roe v. Wade*, revoking the federal protection of the right to receive an abortion, and leaving abortion policymaking to state legislatures. Approximately thirteen states have already enforced abortion bans as of April 2023, while some states are still struggling with legal challenges of the ban. Across the U.S., individuals with the capacity for pregnancy are left without legal protection to such a necessary medical procedure. However, abortion access is only the surface of what is taken away from pregnant people with the overturning of *Roe v. Wade*. Exacerbated by race, class, and location of residence, pregnant people face major health, socioeconomic, and social losses that ultimately contribute to a poorer quality of life and overall setback in the movement towards reproductive justice. This paper explores the effects of the *Dobbs* decision that overturned *Roe v. Wade*, by examining the realities of marginalized groups through the lenses of social welfare, public health, politics, and reproductive justice.

I. Introduction

In 1973, the United States Supreme Court recognized the fundamental right to an abortion in *Roe v. Wade*, which became a pivotal moment in the reproductive rights movement. Not only did it guarantee the liberty to choose to continue a pregnancy, but it also protected the individual privacy of those seeking reproductive services.[1] Abortion and access to it became a constitutional right protected by federal law, making abortion not only more accessible, but safer as well.

In 2022, the United States Supreme Court made a landmark decision on the *Dobbs v. Jackson Women's Health Organization* case that revoked the constitutional right to an abortion.[2] Thus *Roe v. Wade* and *Planned Parenthood v. Casey*, two important cases for abortion access, were overturned. Just as the *Roe* decision was integral as it was for the progress of the movement, *Roe*'s overturn drew back successes. The right to abortion now lies in the hands of state governments. In the six months after the *Dobbs* decision, twenty-four U.S. states banned

1 Ziegler, Mary. "The Framing of a Right to Choose: Roe v. Wade and the Changing Debate on Abortion Law." *Law and History Review* 27, no. 2 (2009): 281–330. https://doi.org/10.1017/S0738248000002029.

2 Johnson, Candace. "Drafting Injustice: Overturning *Roe v. Wade*, Spillover Effects and Reproductive Rights in Context." *Feminist Theory*, August 4, 2022, 14647001221114611. https://doi.org/10.1177/14647001221114611.

abortion or are very likely to do so.[3] While all pregnant people were put in disadvantageous positions with the loss of *Roe v. Wade*, it was most disproportionately experienced by pregnant people within marginalized groups.[4]

This thesis will be divided into four chapters that explore the *Dobbs* decision, its fallout, and the different groups its overturn affects. Chapter One dives into the history of the reproductive rights movement and reproductive justice, the legal history that established *Roe v. Wade* and ultimately its overturn. Chapter Two analyzes the current systems in place that perpetuate the oppressions of marginalized communities that are exacerbated by the *Dobbs* decision. Chapter Three explores how racism, classism, and geography intersect and influence the marginalization of pregnant people in the face of the overturn of *Roe*, in addition to how incarceration impacts abortion. Lastly, Chapter Four attempts to explore the future of the reproductive justice movement, gauging macro to micro interventions necessary to leverage the loss of *Roe v. Wade* and what is to come in a post-*Dobbs* era. Overall, this work seeks to answer what is lost beyond just the right to abortion and how it is experienced differently by various marginalized groups.

II. Reproductive justice and the history of abortion in the U.S.

A. Reproductive health

Maternal health is getting worse in the United States. In 2020, the maternal mortality rate was 23.8 deaths per 100,000 live births; this rate has increased from 20.1 in 2019.[5] Importantly, Black and Indigenous people are the ones most affected as they are two to three times more likely to die from pregnancy-related causes compared to white people.[6] This is not a matter of funding nor adequate technology available in the country. Out of the world's developed countries, the United States spends the most on health care, as measured by percent of GDP.[7] Yet, in 2020, the American maternal mortality rate was more than three times the rate in other developed countries.[8]

Maternal health is only part of what is covered by the umbrella term of "reproductive health." Reproductive health advocates aim to reduce the adverse outcomes of sexual activity and reproduction in addition to enabling people of all ages to have safe and satisfying relationships.[9] Interestingly enough, public health expert Imrana Qadeer describes reproductive health as "an ideal, a dream to move towards,"[10] which captures the idea that reproductive health is not something that one is able to easily acquire by medical prescription and treatment, but rather something that needs to be worked towards through changing legal policy and challenging social norms.

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3 Johnson, "Drafting Injustice: Overturning *Roe v. Wade*, Spillover Effects and Reproductive Rights in Context."

4 Artiga, Samantha, Usha Ranji, Latoya Hill, and Ivette Gomez. "What Are the Implications of the Overturning of *Roe v. Wade* for Racial Disparities?" *KFF.org*, July 15, 2022. https://www.kff.org/racial-equity-and-health-policy/issue-brief/what-are-the-implications-of-the-overturning-of-Roe-v-wade-for-racial-disparities/.

5 Hoyert, Donna. "Maternal Mortality Rates in the United States, 2020." *National Center for Health Statistics (U.S.)*, February 25, 2022. https://doi.org/10.15620/cdc:113967.

6 Center for Disease Control and Prevention. "Infographic: Racial/Ethnic Disparities in Pregnancy-Related Deaths — United States, 2007–2016 | CDC." *Center for Disease Control and Prevention*, April 13, 2022. https://www.cdc.gov/reproductivehealth/maternal-mortality/disparities-pregnancy-related-deaths/infographic.html.

7 Tikkanen, Roosa, and Melinda Abrams. "U.S. Health Care from a Global Perspective, 2019: Higher Spending, Worse Outcomes?" January 30, 2020. https://doi.org/10.26099/7avy-fc29.

8 Gunja, Munira Z, Evan D Gumas, and Reginald D Williams. "The U.S. Maternal Mortality Crisis Continues to Worsen: An International Comparison," December 1, 2022. https://doi.org/10.26099/8vem-fc65.

9 Glasier, Anna, A Metin Gülmezoglu, George P Schmid, Claudia Garcia Moreno, and Paul Fa Van Look. "Sexual and Reproductive Health: A Matter of Life and Death." The Lancet 368, no. 9547 (November 4, 2006): 1595. https://doi.org/10.1016/S0140-6736(06)69478-6.

10 Qadeer, Imrana. "Reproductive Health: A Public Health Perspective." Economic and Political Weekly 33, no. 41 (1998): 2676.

B. History of reproductive rights and justice

The reproductive rights movement was born within the movement for women's suffrage and political equality as presumably cis-gender women, mainly white and middle to upper class, sought to pursue higher education and professional careers. The term "voluntary womanhood" emerged at this time as the "first feminist birth control demand" in the United States; it became a collective organizing effort as the understanding of involuntary motherhood and childbearing were essential parts of pregnancy-capable people[11]oppression.[12] However, birth control was only accessible to the wealthy and, at the time in the United States, white, presumably cisgender, women. On the other end of the spectrum, disabled, Black, Indigenous, ethnic minority, and poor people with uteruses were faced with the start of the eugenics movement where state power stripped pregnancy-capable individuals of all forms of birth control entirely. In 1932, twenty-six states had passed compulsory sterilization laws and had surgically prevented thousands of "unfit" people from reproducing.[13] "Unfit" individuals were people with mental disabilities, drug addictions, and epilepsy, in addition to criminals, prostitutes, and Black and Native people. Sterilization coming out of the birth control movement was a major step back in the movement for reproductive rights as poor people of color were blatantly left out of the conversation of individual rights. With a narrative centralized around the concept of "choice," the ability to have a choice was only given to white individuals of the middle and upper classes. This ultimately characterizes this movement as being more aligned with what is known today as the "pro-choice" movement.

Reproductive rights fell short in considering the social contexts of all individuals such that not all people had the privilege of choice. This narrative of choice, as author and women's rights activist Jael Silliman puts it, "discounts the ways in which the state has regulated populations, disciplined bodies, and exercised control over sexuality, gender, and reproduction."[14] Because of this, massive demographics of individuals are left out of the reproductive rights movement and thus called for a more inclusive framework that advocates for justice *and* reproductive rights. The term "reproductive justice," or RJ, was coined by a group of Black-American feminists in 1994 that defined it as "a woman's right not to have a child, but also the right to have children and raise them with dignity in safe, healthy, and supportive environments."[15] This framework and movement was birthed from the inequalities that the reproductive rights, turned pro-choice, movement failed to recognize. RJ seeks to address the necessity to include *all* pregnant people in the narrative of fighting for reproductive rights. The reproductive justice movement is distinct from the reproductive rights movement, or rather, the pro-choice movement. While RJ seeks to encompass a social justice approach to address the needs of all pregnancy-capable people by not centering it on the rhetoric of "choice" that is only accessible to a specific demographic, the pro-choice movement continues to exist as a largely feminist movement that still displaces the voices of the most vulnerable pregnant populations.

However, to understand why reproductive justice is as necessary as it is, or rather why it is still relevant, one must understand the history of reproduction in the United States. While aside from reproduction, the need for reproductive justice goes to show the value that presumably cisgender women hold in a cisgender man's society. In the United States, people who are able to become pregnant have always been measured by their maternal or reproductive quality.

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11 Not everyone who is capable of pregnancy identifies as women. Therefore, this thesis utilizes gender inclusive terminology, such as "pregnant people" or "people with uteruses" will be used. However, it is important to note that most literature, especially history literature, about reproductive health utilizes the term "women." For most cases, it can be presumed that they are referencing cisgender women.

12 Gordon, Linda. "Black and White Visions of Welfare: Women's Welfare Activism, 1890–1945." The Journal of American History 78, no. 2 (1991): 559–90. https://doi.org/10.2307/2079534.

13 Ehrenreich, Nancy. *The Reproductive Rights Reader: Law, Medicine, and the Construction of Motherhood*. NYU Press, 2008.

14 Jael Miriam Silliman, Anannya Bhattacharjee, Angela Y Davis, and Committee On. *Policing the National Body : Sex, Race, and Criminalization*. Cambridge, Mass.: South End Press, 2002.

15 Roberts, Dorothy. *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty*. Knopf Doubleday Publishing Group, 2014.

During the age of enslavement, presumably cisgender Black women were valued for their ability to reproduce for sheer numbers. "Slave-breeding" was a practice by slave owners to compel enslaved people to perform sexual intercourse in hopes of producing children. This would, in turn, produce more slaves as slave owners had legal claim to slave offspring.[16] Furthermore, sociologist Dorothy Roberts describes in her seminal book, "Killing the Black Body," how the law permitted the sexual exploitation of enslaved pregnancy-capable individuals by both their white slave owners and other Black enslaved people. Therefore, not only were cisgender-identifying women utilized for their reproductive capacity for economic gain, their own bodily rights were disregarded because of their status as Black enslaved pregnancy-capable individuals.

On the other side of the country, Asian immigrants faced limits to their reproductive capabilities in the wake of gendered immigration restrictions.[17] With the rise of labor outsourced from East and South Asian countries concentrated on the western coast, the concept of "yellow peril" grew, which was a nationalist view that posed Asian immigrants as a danger to the United States. This racial metaphor was based on the fears of white workers viewing Asian immigrants not only as economic competition but vectors of alien diseases and representatives of immorality.[18] An overt response to this was the Page Act of 1875 that strengthened the ban on Chinese outsourced labor in addition to the immigration of presumably cis-gender Chinese women. While it failed to restrict Chinese labor immigration, the Page Act significantly reduced presumably cisgender women's immigration by 68% within the first seven years after its passing, compared to the previous seven years before it.[19] By limiting the number of Chinese pregnancy-capable individuals entering the United States, it also greatly reduced the number of Chinese-Americans born, which is another example of a specific demographic reduced by means of restrictions on pregnant people.

Additionally, in 1875 was the *Minor v. Happersett* case, the first account of presumably cis-gender women attempting to claim a right to vote. The Supreme Court decided to give state governments the right to determine eligibility to vote despite claiming pregnancy-capable people as citizens of the United States; it would take another forty-five years for the Nineteenth Amendment to pass that would guarantee their right to vote.[20] In 1908, *Muller v. Oregon* upheld Oregon's regulation of restricting pregnancy-capable individuals from working more than 10 hours a day to protect their physicality and preserve "fetal vulnerability" after a man was fined for overworking one of his presumably cisgender women employees.[21] Contrarily, for most of the twentieth century, sterilization continued to rise as eugenics and, after World War II, neo-eugenics remained prevalent. As a response to "institutional overcrowding," pregnant people took more of the burden of sterilization due to the eugenic belief that individuals with uteruses were more responsible for "defective" offspring because they were the ones bearing children.[22] In doing so, it was the role of pregnancy-capable individuals to preserve the racial, able-bodied ideals of Americans through regulations on their own reproductive abilities.

Even in the 1970s, when the pro-choice movement was arguably at its peak alongside the feminist and counterculture movement, forced sterilization was still occurring, a direct contradiction to the fight for bodily autonomy that pregnancy-capable individuals were advocating for. The Indian Health Service faced accusations of sterilizing at least twenty-five percent of Native American people with uteruses; these accusations included: failure to provide necessary information about sterilization, improper consent forms, the use of coercion, and lack of an appropriate waiting period between signing the consent form and surgical period. The United States government strategically targeted Native American communities due to their higher birth rates, after the 1970 census revealed

16 Roberts, Dorothy. *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty*. 2014.

17 Ross, Loretta, and Rickie Solinger. *Reproductive Justice: An Introduction*. Univ of California Press, 2017.

18 Lee, Erika. "The 'Yellow Peril' and Asian Exclusion in the Americas." *Pacific Historical Review* 76, no. 4 (November 1, 2007): 537–62.

19 Peffer, George Anthony. "Forbidden Families: Emigration Experiences of Chinese Women under the Page Law, 1875–1882." *Journal of American Ethnic History* 6, no. 1 (1986): 28–46.

20 Wayne, Tiffany K. *Women's Suffrage: The Complete Guide to the Nineteenth Amendment*. ABC-CLIO, 2020.

21 Becker, Mary E. "From Muller v. Oregon to Fetal Vulnerability Policies." *The University of Chicago Law Review* 53, no. 4 (1986): 1219–73. https://doi.org/10.2307/1599748.

22 Kluchin, Rebecca M. *Fit to Be Tied: Sterilization and Reproductive Rights in America, 1950–1980*. Rutgers University Press, 2011.

the average Native pregnancy-capable individual had 3.79 children while the median for other groups in the U.S. was 1.79 children.[23] Therefore, even with the establishment of a movement such as reproductive rights going on at the time, there were still evident cracks in the system that allowed for pregnant people of specific demographics to fall through. Continually, pregnancy-capable people were viewed as vehicles of reproduction, whether it was financially beneficial or demographically detrimental. Fertility, motherhood, and the right to one's body was a liability for all pregnant people but unequally. This sentiment is reflected as the concept of reproductive justice grew as more ethnic minority pregnancy-capable individuals, especially Black individuals, started advocating for the equitable rights of *all* pregnant people as opposed to the narrative of choice available to *some*.

This is the delineation between the privilege in "choice" seen in the original reproductive rights or pro-choice movement and the necessity of social justice in RJ, and it is because there are specific groups of pregnancy-capable individuals left out of the advocacy for their rights. History shows that despite having vital roles in resolving conflicts and advocacy, the majority of presumably cisgender women have been ignored, omitted, and neglected.[24] With the legal and systematic structures in place that allow for this to happen, institutionalization continues to perpetuate not only pregnant people's rights disparities, but reproductive health disparities as well. RJ exists because those very same disparities are experienced today by the many who are systematically disadvantaged due to the color of their skin, income, citizenship status, and sexual orientation. However, this is not to say that white, presumably cisgender women are saved by welfare programs and do not endure any hardships caused by their reproductive capability. Sexism is the very root of reproductive injustice and any pregnant person is predisposed to experience its effects. Part of that experience are the hindrances that come with making the decision to have (or not have) children. Once seen as the reproductive units of the household, people with uteruses are faced with the expectations of having children. Because of this, a significant stigma exists around people's choice to not have children or when sexual activity does not equate to reproduction. This concept is further implicated when an individual may become pregnant and are faced with the circumstance of needing to terminate their pregnancy. In this case, an abortion could take place but, in the United States, the legality of an abortion is still largely determined by political geography.

C. What is an abortion?

According to the World Health Organization, an abortion refers to the termination of an unwanted pregnancy. Furthermore, WHO also distinguishes abortion being either safe or unsafe by defining unsafe abortions as being "carried out either by persons lacking the necessary skills or in an environment that does not conform to minimal medical standards, or both."[25] However, the definition of abortion, historically, was more generally labeled as the death of a fetus before it can survive outside of the uterus, or viability.[26] As obstetrics began to advance as a field, the definition of abortion slowly morphed into any delivery of a fetus before sixteen weeks, twenty-eight weeks, or even six months thus resulting in its death.[27] Today, the definition of abortion plays a big role in how abortion is socially accepted and politically legalized. It is the move both ends of the political and social argument play as they toggle through defining not only what an abortion entails, but at what point in gestation something is "living." Throughout American history, the disagreement of what an abortion is has been contested and continues to be a relevant issue debated upon today.

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23 Lawrence, Jane. "The Indian Health Service and the Sterilization of Native American Women." *American Indian Quarterly* 24, no. 3 (2000): 400–419.

24 United Nations. "Women Too Often Omitted from Peace Processes, Despite Key Role in Preventing Conflict, Forging Peace, Secretary-General Tells Security Council | UN Press." United Nations, October 25, 2016. https://press.un.org/en/2016/sc12561.doc.htm.

25 "Safe and Unsafe Abortion: Global and Regional Levels in 2008, and Trends during 1995-2008." World Health Organization, 2012.

26 Potts, Malcom, P. Diggory, and John Peel. *Abortion*. CUP Archive, 1977.

27 Potts, Malcom, P. Diggory, and John Peel. *Abortion*.

D. Roe v. Wade

Popularly and commonly known as the case that legalized abortion nationally, *Roe v. Wade* (1973) is historically situated during a time when women's rights, feminism, and the counterculture movement were all at play. The fight for abortion legalization quickly brought itself to the forefront of women's rights movements as more presumably cisgender women connected abortion rights to their original agenda of higher education, equal work opportunity, and social policies that allowed for them to live independent lives.[28] Arguments for abortion legalization were largely fueled by the feminist and pro-choice movement. In the realm of policy, part of their advocacy included being "rights-based" that pushed for the public health argument, which focused on the fatalities and injuries associated with illegal abortions. However, a significant yet less well-known part of *Roe*'s argument for abortion was its use as a method of population control.[29] The perspective of abortion being a population control tool—as opposed to a life-saving procedure for women—sheds light on the political priorities of the Supreme Court, which aimed to reduce population size to "cut welfare expenses, reduce pollution, or cut illegitimacy rates".[30] Because of the influence population control had on the *Roe* argument, the decision cannot be discussed without the understanding that its proponents had recognized its capability as a means of population management. However, it is just as important to note that, in the years following the *Roe* decision, arguments of abortion as a population planning tool declined in pro-choice advocacy as the concept of population control grew to be recognized as "racist or economically exploitative."[31]

Norma McCorvey, who used the pseudonym "Jane Roe," was the defendant at the center of the Supreme Court Case. As a pregnant person from Texas, she challenged her home state's anti-abortion regulations where abortions were outlawed except when it was detrimental to a pregnant person's life.[32] In 1973, *Roe v. Wade* was decided in favor of legalizing abortion. It was recognized on the basis of the Fourteenth Amendment that abortion was constitutionally guaranteed by a pregnant person's right to privacy.[33] Prior to the *Roe* decision, most states criminally outlawed abortion. While it was still on the state level to determine to what extent the legality of abortion would be, the passage still provided the necessary relief that part of a pregnant individual's rights was the right to an abortion.

Immediately after, it is no surprise that documented rates of abortion increased dramatically.[34] Even more significantly, the legalization of abortion dramatically decreased the rate of abortion-related maternal deaths in the U.S., decreasing from 5.7 per million individuals of reproductive age from 1963-1973 to 0.5 per million in 1976. This is most notably connected to the rise in the availability and accessibility of safe abortion facilities.[35] *Roe v. Wade* proved to be the necessary response to a fixable issue in the United States. It signified leaps forward for pregnant individuals to make decisions about their own reproductive capacities, allowing for opportunities to seek professional work and pursue higher education which was what the reproductive rights movement had long been fighting for.

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28 Greenhouse, Linda, and Reva B. Siegel. "Before Roe v. Wade: Voices That Shaped the Abortion Debate before the Supreme Court's Ruling." 2. ed. S.l.: Yale Law School, 2012.

29 Ziegler, Mary. "The Framing of a Right to Choose: *Roe v. Wade* and the Changing Debate on Abortion Law." *Law and History Review* 27, no. 2 (ed 2009): 281–330. https://doi.org/10.1017/S0738248000002029.

30 Ziegler, Mary. "The Framing of a Right to Choose: *Roe v. Wade* and the Changing Debate on Abortion Law." 282.

31 Ziegler, Mary. "The Framing of a Right to Choose: *Roe v. Wade* and the Changing Debate on Abortion Law." 283.

32 Gibson, Katie L. "The Rhetoric of *Roe* v. Wade: When the (Male) Doctor Knows Best." *Southern Communication Journal* 73, no. 4 (October 21, 2008): 313. https://doi.org/10.1080/10417940802418825.

33 Smith, Philip A. "The Right to Privacy: *Roe v. Wade* Revisited." Jurist 43, no. 2 (1983): 289–317 Society of Family Planning. "#WeCount Report: April 2022 to December 2022," April 2023.

34 Diamant, Jeff, and Besheer Mohamed. "What the Data Says about Abortion in the U.S." Pew Research Center (blog), January 11, 2023. https://www.pewresearch.org/fact-tank/2023/01/11/what-the-data-says-about-abortion-in-the-u-s-2/.

35 Hansen, Susan B. "State Implementation of Supreme Court Decisions: Abortion Rates Since *Roe v. Wade*." The Journal of Politics 42, no. 2 (1980): 372–95. https://doi.org/10.2307/2130465.

E. The Fall of Roe v. Wade

Unfortunately, the controversial discourse surrounding abortion did not end with the ruling of *Roe v. Wade*. Between the religious adjacent pro-life and the feminist pro-choice, the debate remained polarized. Even at the federal level, the preservation of *Roe* was at risk with conservative prominence within the Senate seeking to overrule the original case. In the light of divided opinions on regulating abortion present in major politics, the 1992 Supreme Court case of *Planned Parenthood v. Casey* reaffirmed the constitutionality of *Roe v. Wade*. However, abortion was permitted as long as it did not cause "undue burden"[36] which is when state restrictions place substantial obstacles for someone seeking an abortion. While it seemed that the Casey case was a step forward in the legalization of abortion rights, it only proved to foreshadow what was to come exactly twenty years later. By undoing the *Roe v. Wade* framework, the ruling of Casey allowed for further restrictions to be permitted at the state level.[37] The attempts to regulate and impose abortion restrictions continued across the United States. According to the Guttmacher Institute, between *Roe* and *Dobbs*, a total of 1,381 abortions restrictions have been enacted, with almost half instituted within the past decade alone.[38] In March 2018, Mississippi enacted the Gestational Age Act, which banned abortion after the fifteenth week of gestation with exceptions only for medical emergencies or fetal abnormality. While *Roe v. Wade* had originally protected viability, Mississippi's argument in what would be the Supreme Court case of *Dobbs v. Jackson Women's Health Organization* is at what age of gestation, or the time between conception and birth, was life considered - this goes back to the unclear definitions of abortion and when life starts. In the wake of *Roe* and Casey, both were decided upon during a time in which obstetrics was not as technologically advanced as it is today in increasing the survival rates of younger fetuses. Now, nearly twenty years of medical advancements later, the case of premature infants surviving at twenty-two weeks stands to testify how viability could be defined.[39] Ultimately, in June 2022, the decision of *Dobbs v. Jackson* resulted in the overturn of *Roe v. Wade* thus ending the constitutional right to abortion.[40] Once federally protected, now access to abortion was put in the hands of state legislatures.

F. Abortion criminalization

The 2022 *Dobbs* decision removed the constitutional right to an abortion, leaving the decision to state governments to determine abortion's legality. As of March 2023, thirteen states have already enforced total abortion bans while an additional twelve states are currently considered in "hostile" conditions as they are in the process of prohibiting all abortions.[41] As the abortion landscape is constantly changing, the type of bans are also fluid in what they restrict. Trigger and pre-*Roe* bans are meant to prohibit all abortions by removal of the constitutional right or the revival of the bans pre-*Roe* era, respectively. Pre-viability gestational bans, seen in most states in hostile conditions, ban abortion before viability, which is counted in weeks either from fertilization or last menstrual period. Lastly, "SB-8 copycats" are bans that resemble the Texas law, Senate Bill (SB) Eight, that banned abortion at an early gestational age and is enforced through private rights of action, such as individuals suing abortion providers and those who seek abortions.[42] Nearly a year since the *Dobbs* decision, states have installed laws of extreme

36 Linton, Paul Benjamin. "Planned Parenthood v. Casey: The Flight from Reason in the Supreme Court Abortion Rights and Public Policy Symposium." *Saint Louis University Public Law Review* 13, no. 1 (1994 1993): 16.

37 Johnson, Candace. "Drafting Injustice: Overturning *Roe v. Wade*, Spillover Effects and Reproductive Rights in Context." *Feminist Theory*, August 4, 2022, 14647001221114611. https://doi.org/10.1177/14647001221114611.

38 Guttmacher Institute. "Abortion." Guttmacher Institute, February 28, 2023. https://www.guttmacher.org/united-states/abortion.

39 Perry, Sarah Parshall, and Thomas Jipping. "*Dobbs v. Jackson Women's Health Organization*: An Opportunity to Correct a Grave Error," no. 293 (n.d.): 31.

40 Johnson, Richard. "*Dobbs v. Jackson* and the Revival of the States' Rights Constitution." *The Political Quarterly*. Accessed December 3, 2022. https://doi.org/10.1111/1467-923X.13193.

41 Center for Reproductive Rights. "Abortion Laws by State." Center for Reproductive Rights. Accessed March 29, 2023. https://reproductiverights.org/maps/abortion-laws-by-state/.

42 Center for Reproductive Rights. "Abortion Laws by State."

nature to further uphold abortion's illegalization and, if not banning abortion, its inaccessibility. For example, states like Nebraska and Wisconsin, have enacted mandatory ultrasound, biased counseling, and waiting period requirements before abortion procedure delivery.[43] While the extremity of legality ranges from state to state, the *Dobbs* decision has and will increase the surveillance and policing around all pregnant people across the country.

Criminalization is not only confined to individuals seeking an abortion. In states with abortion bans, people whose pregnancies do not end in a live birth are put in the position to be potential suspects to civil or legal penalties, even if pregnancy loss was due to miscarriage or stillbirth.[44] This is made even more complicated as self-managed abortion clinically resembles miscarriage. As a result, those who experience miscarriage are forced to prove that they did not self-induce their pregnancy loss—"the equivalent of proving a negative."[45] Furthermore, proof is both difficult and disproportionately obtained. The case of proving a miscarriage unintentional will be less likely to be made by individuals with fewer resources, thus making them at a greater risk of being criminalized for spontaneous pregnancy loss.[46]

The concept of fetal personhood is a major thread through matters involving abortion criminalization and pregnancy policing. Fetal personhood is the notion that the fetus is a separate entity from its mother and thus subject to legal rights separate from those of a pregnant individual.[47] Thus, the humanity of a fetus and emphasis on its vulnerability play an impactful role in how pro-life advocates debate for fetal personhood against abortion. The idea of preserving fetal life, in turn, also impacts how pregnant people are policed. While intended to protect pregnant people in violent cases against them, many pregnant individuals have been charged with "feticide, manslaughter, reckless homicide, child abuse, and first-degree murder" after having a miscarriage or still birth.[48] This goes back to the need for pregnant people to have to justify whether their pregnancy loss was intentional or not, an action already discussed to disproportionately affect some pregnant people more than others. In a different light, the urgency and importance placed on fetal rights and vulnerability come with the cost of subordinating pregnant people's civil liberties. In the face of fetal protection, pregnant people experience a decay in their own rights as more of their behavior is deemed harmful against the fetus.[49] As a result, the greater policing on pregnant people will amass greater numbers of pregnant people incarcerated.

G. What is at stake?

Within three months of *Roe*'s overturn, there has been a statistically significant increase in the travel time to abortion facilities by reproductive aged individuals in the United States.[50] Within a week of the Court's decision, a telehealth study revealed that a telemedicine service providing self-managed abortion received increased requests following the formal announcement. Furthermore, the largest increases were observed in states that enacted total abortion bans.[51] In the wake of its ruling and within so little time, people with uteruses were speedily losing access

43 Center for Reproductive Rights. "Abortion Laws by State."

44 Kimport, Katrina. "Abortion after *Dobbs*: Defendants, Denials, and Delays." *Science Advances* 8, no. 36 (n.d.): eade5327. https://doi.org/10.1126/sciadv.ade5327.

45 Kimport, Katrina. "Abortion after *Dobbs*: Defendants, Denials, and Delays." *Science Advances*.

46 Kimport, Katrina, and Monica R. McLemore. "The Problem with 'Justifying' Abortion: Why Real Reproductive Justice Cannot Be Achieved by Theorizing the Legitimacy of Abortion." *Women's Reproductive Health* 9, no. 1 (January 2, 2022): 28.

47 Schroedel, Jean Reith, Pamela Fiber, and Bruce D. Snyder. "Women's Rights and Fetal Personhood in Criminal Law." *Duke Journal of Gender Law & Policy* 7 (2000): 94.

48 Weigel, Gabriela, Laurie Sobel, and Alina Salganicoff. "Criminalizing Pregnancy Loss and Jeopardizing Care: The Unintended Consequences of Abortion Restrictions and Fetal Harm Legislation." *Women's Health Issues* 30, no. 3 (May 1, 2020): 143.

49 Schroedel, Jean Reith, Pamela Fiber, and Bruce D. Snyder. "Women's Rights and Fetal Personhood in Criminal Law." *Duke Journal of Gender Law & Policy* 7 (2000): 94.

50 Rader, Benjamin, Ushma D. Upadhyay, Neil K. R. Sehgal, Ben Y. Reis, John S. Brownstein, and Yulin Hswen. "Estimated Travel Time and Spatial Access to Abortion Facilities in the US Before and After the *Dobbs v Jackson* Women's Health Decision." *JAMA* 328, no. 20 (November 22, 2022): 2041–47. https://doi.org/10.1001/jama.2022.20424.

51 Aiken, Abigail R. A., Jennifer E. Starling, James G. Scott, and Rebecca Gomperts. "Requests for Self-Managed Medication Abortion Provided Using Online Telemedicine in 30 US States Before and After the *Dobbs v Jackson* Women's Health Organization Decision." *JAMA* 328, no. 17 (November 1, 2022): 1768–70. https://doi.org/10.1001/jama.2022.18865.

to an abortion. Just as it was fifty years ago, pregnant people are yet again put in the position to travel great lengths and put themselves in danger for the sake of freedom from reproductive limitations. This inaccessibility begs the question of where the protection of privacy stands and to what degree people with uteruses are entitled to their own body. Furthermore, just as it played out in history, pregnant people of marginalized identities experience effects exacerbated by the loss of abortion rights.

Despite the irony of cisgender men having the loudest voice in the room about abortion rights, they too experience disproportionate effects in abortion access loss. Assistant professor of obstetrics and gynecology at the University of Southern California, Dr. Brian Nguyen revealed in his study that approximately one in five presumably cisgender men have been involved in an abortion, and this number may be an under-count due to misreports related to stigma or simply being unaware or uninformed.[52] That means of the 162.4 million presumably cisgender men in the United States, about 32.48 million of them have been involved in an abortion. Therefore, the controversy of abortion should not just be considered an issue single handedly experienced by pregnancy-capable individuals as it involves the active, yet indirect, participation of cisgender men.

At stake is the health and privacy of all pregnant people as a result of the *Dobbs* decision. However, their experience does not stand alone, as mentioned earlier, individuals not capable of pregnancy are also negatively impacted by the loss of abortion rights. That being said, the effects of the *Dobbs* ruling is all encompassing - affecting those who can and cannot give birth and those who choose not to.

II. Systems of Oppression

Abortion is an issue that spans across multiple systems of power. The politicization of abortion has shaped the way in which abortion is viewed as ethical and just. In the specific realm of biopolitics, the government has controlled the ways in which people with uteruses have been unable to access the necessary resources or obtain the autonomy to their own reproductive health. In another light, abortion is a medicalized procedure and its legal regulations influence its impact within the medical field and beyond.

A. Biopolitics and governmentality

Biopolitics, simply put, is the intersection of biology and politics. French philosopher Michel Foucault coined the term biopolitics to refer to the process in which human life emerged as a political problem and how power was exercised to manage society at the population level.[53] Governmentality is defined by how a state exercises control over their governing body.[54] In the United States, and in other parts of the world, biopolitics and governmentality assemble at the intersection of population management made possible by the control of reproductive autonomy.

Reproductive freedom has historically been limited by bodies of power. When the United States stopped importing enslaved people in 1808, the burden for enslaved pregnancy-capable individuals to reproduce increased as the slavery economy could only continue through children born in bondage.[55] Thus, many Black pregnant individuals were not only subject to forced birth despite whatever comorbidities they may have had, they were also subject to reproduce even if they were unwilling to do so. Black pregnant people were seen as vessels of capital by means of their reproductive capability in addition to their production of labor. This coercion of reproduction stands as a testament to American history that is rooted in racialized control of fertility and reproduction.

The twentieth century brought biopolitics forward in terms of aiming to restrict the growth of "undesirable groups" across the United States. Termed the eugenics movement, the pursuit of population management by

52 Nguyen, Simar Bajaj, Daniel Ahmed, and Fatima Cody Stanford. "Protecting Marginalized Women's Mental Health in the Post-*Dobbs* Era," 2022. https://doi.org/10.1073/pnas.2212012119.

53 Means, Alexander J. "Foucault, Biopolitics, and the Critique of State Reason." *Educational Philosophy and Theory* 54, no. 12 (October 15, 2022): 1968–69.

54 Muller, Benjamin J. "Governmentality and Biopolitics." *Oxford Research Encyclopedia of International Studies*, June 13, 2011.

55 Schwartz, Marie Jenkins. *Birthing a Slave: Motherhood and Medicine in the Antebellum South*. Harvard University Press, 2010.

American institutions sought to eliminate so-called negative traits, such as "pauperism, mental disability, dwarfism, promiscuity, and criminality."[56] The eugenics movement was justified through a medical lens which purported that undesirable traits were passed via bloodline, therefore advancing termination of reproductive capability via sterilization as a primary solution. Within the first twenty-five years of eugenics legislation, the state of California led the nation in sterilizing over 9,000 individuals constituting nearly one-third of all sterilizations in the country, many of whom were presumably cis-gender women.[57] Originally seeking to reduce the prevalence of "undesirable" traits such as mental illness or certain diseases, eugenic sterilization programs eventually operated with an expanded rationale around poverty reduction. Because the majority of low-income Americans are non-white,[58] the eugenicist rationale also largely affected communities of color. Inextricably tied to its foundations in colonial systems, American eugenics programs perpetuate inequities among and harm against Black, Indigenous, and racialized people. While eugenics itself has long been rejected by mainstream society since the end of World War II, its consequences still remain as many people with uteruses still do not have reproductive autonomy. The eugenics movement became a mechanism of reproductive control that is upheld by systems of white supremacy which, as Loretta J. Ross defines, is the "interlocking system of racism, patriarchy, homophobia, ultra-nationalism, xenophobia, anti-Semitism and religious fundamentalism that creates a complex matrix of oppressions faced by people of color in the U.S."[59] The heteropatriarchal values held by the country has informed the ways in which institutions, such as the government, have continued to exercise population management by reproductive oppression, especially among low-income people of color. In doing so, presumably cis-gender women become the mediums of oppression by means of their reproductive capabilities. As sociology Ph.D candidate Karine Coen-Sanchez argued, "governments have used women as a means to an end rather than as an end in themselves"[60] and, arguably, governments still do.

Controlling reproduction is rooted in racist history. It is the same history that the United States is built upon that upholds a "white, misogynistic, xenophobic, homophobic nationalist system"[61] that is perpetuated today. Understanding this means putting reproductive autonomy in a wider context beyond an individual's right to have or to not have a child. The structural injustices imposed on marginalized communities that hinder their abilities to "vote freely, move freely, express their gender and sexuality freely, work and thrive and keep their families safe"[62] are all part of the broader conditions that perpetuate reproductive injustice. This includes the ability to decide if, when, and how to become a parent. Access to abortion plays a major role in this ability; therefore lack of abortion access further cultivates a society living in a system that is systematically not made for them to thrive. As the political power over abortion increases, the biopolitical governance of the bodies of people with uteruses will only become greater.[63] However, when considering the communities most impacted by abortion, a system that continually upholds white supremacy will disproportionately already create an environment where abortion is unequally accessible. That is to say, while the *Dobbs* decision that overturned *Roe v. Wade* had an immense impact

56 Bouche, Teryn, and Laura Livard. "America's Hidden History: The Eugenics Movement | Learn Science at Scitable," September 18, 2014. https://www.nature.com/scitable/forums/genetics-generation/america-s-hidden-history-the-eugenics-movement-123919444/.

57 Black, Edwin. "The Horrifying American Roots of Nazi Eugenics | History News Network," September 2003. http://hnn.us/article/1796.

58 Simms, Margaret C., Karina Fortuny, and Everett Henderson. "Racial and Ethnic Disparties Among Low-Income Families." The Urban Institute, August 2009. https://www.urban.org/sites/default/files/publication/32976/411936-racial-and-ethnic-disparities-among-low-income-families.pdf.

59 Ross, Loretta J. "Reproductive Justice as Intersectional Feminist Activism." *Souls* 19, no. 3 (July 3, 2017): 288

60 Coen-Sanchez, Karine, Bassey Ebenso, Ieman Mona El-Mowafi, Maria Berghs, Dina Idriss-Wheeler, and Sanni Yaya. "Repercussions of Overturning *Roe v. Wade* for Women across Systems and beyond Borders." *Reproductive Health* 19, no. 1 (August 24, 2022): 184.

61 Mengesha, Biftu. "The Supreme Court's Abortion Ruling Upholds White Supremacy." *Scientific American*, November 1, 2022. https://www-scientificamerican-com.libproxy.berkeley.edu/article/the-supreme-courts-abortion-ruling-upholds-white-supremacy/.

62 Mengesha, Biftu. "The Supreme Court's Abortion Ruling Upholds White Supremacy." *Scientific American*

63 Coen-Sanchez, Karine, Bassey Ebenso, Ieman Mona El-Mowafi, Maria Berghs, Dina Idriss-Wheeler, and Sanni Yaya. "Repercussions of Overturning *Roe* v. Wade for Women across Systems and beyond Borders." *Reproductive Health* 19, 184.

on reproductive rights across the nation, the reality is that the protections that *Roe* offered were never actualized for all and that the impact of reduced access will also be inequitable.[64]

B. Medicine and public health

Like politics and governmentality, medicine and public health have shaped the way an individual is able to access abortion. However, injustices within the medical system, such as its roots in racism, have also influenced how marginalized communities disproportionately receive inadequate abortion care.

Physicians, by means of the Principles of Medical Ethics outlined by the American Medical Association, are held to the ethical standards to "support access to medical care for all people."[65] While individual doctors may practice to the standard, the medical field, as a whole system, is not as accessible and equitable as it ethically holds itself to be.

Many scholars have argued that medicine is rooted in racism.[66] Shaped by scientific racism and the eugenics movement, people of color have been objectified, experimented on, and maltreated by medicine and for the advancements of it.[67] Anatomical features, such as skull size and volume, were correlated with intellectual capability that yielded Black and other racialized people as inferior to white people, a historical foundation of scientific racism.[68] The eugenics movement that influenced governmentality in the United States held similar sentiment that upheld white superiority by the attempt to sterilize undesirable traits, often associated with people of color, to formulate a more intelligent, pure, and—essentially—whiter nation.[69]

Injustices live on today through disparate access to healthcare and poorer health outcomes experienced by Black people and other people of color. The 2019 National Healthcare Quality and Disparities report revealed that people of color across the board—Black, Hispanic, Asian, and Native populations—were receiving worse care compared to white populations in more than thirty percent of quality measures.[70] In the 2022 National Healthcare Quality and Disparities report, ethnic and racial minority communities were cited to experience worse outcomes compared to white communities on more measures than better outcomes.[71] The data reveals that disparities persist and part of it is due to the racist biases and beliefs that influence practice. A 2016 study that evaluated racial perceptions revealed that half of white medical students and residents had implicit beliefs that biological differences existed between Black and white people. These perceptions were seen through pain assessments that rated Black patients' pain as less severe than that of white patients leading to less appropriate decisions of treatments for Black patients.[72] The persistent belief of innate, biological differences is only one example of how the legacy of scientific racism lives on and continues to impact the ability of Black people and other people of color to navigate not only medical systems, but the entire world around them.

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64 Fuentes, Liza. "Inequity in US Abortion Rights and Access: The End of *Roe* Is Deepening Existing Divides." Guttmacher Institute, January 12, 2023. https://www.guttmacher.org/2023/01/inequity-us-abortion-rights-and-access-end-Roe-deepening-existing-divides.

65 Hajar, Rachel. "The Physician's Oath: Historical Perspectives." *Heart Views : The Official Journal of the Gulf Heart Association* 18, no. 4 (2017): 154–59.

66 Byrd, W. M., and L. A. Clayton. "Race, Medicine, and Health Care in the United States: A Historical Survey." *Journal of the National Medical Association* 93, no. 3 Suppl (March 2001): 11S.

67 Byrd, W. M., and L. A. Clayton. "Race, Medicine, and Health Care in the United States: A Historical Survey." 19S.

68 Jackson, John P., and Nadine M. Weidman. "The Origins of Scientific Racism." *The Journal of Blacks in Higher Education* Winter 2005/2006, no. 50 (2005): 66–79.

69 Bailey, Zinzi D., Justin M. Feldman, and Mary T. Bassett. "How Structural Racism Works — Racist Policies as a Root Cause of U.S. Racial Health Inequities." *New England Journal of Medicine* 384, no. 8 (February 25, 2021): 768–73.

70 "2019 National Healthcare Quality and Disparities Report." Accessed March 9, 2023. https://www.ahrq.gov/research/findings/nhqrdr/nhqdr19/index.html.

71 "2022 National Healthcare Quality and Disparities Report." Accessed March 9, 2023. https://www.ahrq.gov/research/findings/nhqrdr/nhqdr22/index.html.

72 Hoffman, Kelly M., Sophie Trawalter, Jordan R. Axt, and M. Norman Oliver. "Racial Bias in Pain Assessment and Treatment Recommendations, and False Beliefs about Biological Differences between Blacks and Whites." *Proceedings of the National Academy of Sciences of the United States of America* 113, no. 16 (March 1, 2016): 4296–4301.

However, it is not only a physician's misconceptions and biases towards a person of color that result in inadequate medical care. Historically redlined communities, now majorly resided in by Black people and other people of color, experience the systematic disinvestment in public and private sectors that result in under-resourced facilities, fewer clinicians, and greater difficulty to recruit experienced providers and specialists.[73] Therefore, part of the experience of healthcare in Black and communities of color are composed of the existing environments they live, work, participate, and receive care in. The interconnectivity of medical schools, providers, insurers, health systems, and legislators all take part of that environment that has systematically upheld medicine's roots in racism that continue to limit care to Black communities.

The same inadequate care is seen in reproductive health. Black and Indigenous maternal mortality rates are two to three times higher than white people.[74] With the Supreme Court's decision to overturn *Roe v. Wade,* the climate surrounding reproductive health will only worsen for all pregnant people, but most especially for low-income, Black, Indigenous, and other ethnic minority pregnant people. In a study assessing the pregnancy-related mortality impact of a total abortion ban, data revealed that non-Hispanic Black people would experience the greatest increase in pregnancy-related mortality, followed by Hispanic people.[75] In states that have already placed the abortion ban, people with the adequate resources and financial capacity will seek abortion out of state. However, this is not an option for the nearly half of Americans seeking abortion care that live under the federal poverty line, according to the Guttmacher Institute.[76] Furthermore, in states like Michigan where abortion services are already scarce and travel distance has increased from twenty to more than 260 miles, travel distances to obtain a legal abortion has increased.[77] This further strains pregnant people from rural areas, those with children needing childcare, and people with employment that does not allow for time off for travel. All in all, pregnant individuals are and will continue to face greater impediments to accessing an abortion, but it will disproportionately affect those already living in the conditions that prevent them to afford and access an abortion prior to the circumstances that state abortion bans impose.

Even when abortion may be physically and financially accessible, some pregnant individuals may still be unable to access care. When unable to receive an abortion, pregnant people will be at more risk for miscarriages, ectopic pregnancies, and obstetric complications that can put their lives in danger, which would have been avoidable had they gotten an abortion.[78] Considering marginalized communities already experience disproportionate health outcomes and, as mentioned, inadequate access to healthcare, this will only cause greater strain for them in terms of maternal health outcomes and future health complications.

Stepping out of the realm of medicine, the public health approach looks at an individual's social determinants of health, which are the ways that a person's socioeconomic and political contexts, in addition to their own social and demographic positions, affect their overall health,[79] to understand abortion care. The governmentality surrounding reproductive health can impact people with uteruses across many aspects beyond medical care; their access to employment, education, and housing are all ways in which the effects of the *Dobbs* decision are far more immense than an issue contained within medicine. Poorer social conditions are linked

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73 Bailey, Zinzi D, Nancy Krieger, Madina Agénor, Jasmine Graves, Natalia Linos, and Mary T Bassett. "Structural Racism and Health Inequities in the USA: Evidence and Interventions."1453–63

74 Hill, Latoya, Samantha Artiga, and Usha Ranji. "Racial Disparities in Maternal and Infant Health: Current Status and Efforts to Address Them." *KFF* (blog), November 1, 2022. https://www.kff.org/racial-equity-and-health-policy/issue-brief/racial-disparities-in-maternal-and-infant-health-current-status-and-efforts-to-address-them/.

75 Amanda Jean Stevenson, "The Pregnancy-Related Mortality Impact of a Total Abortion Ban in the United States: A Research Note on Increased Deaths Due to Remaining Pregnant," *Demography* 58, no. 6 (December 1, 2021): 2019–28, https://doi.org/10.1215/00703370-9585908.

76 Guttmacher Institute. "Abortion." Guttmacher Institute, February 28, 2023. https://www.guttmacher.org/united-states/abortion.

77 Harris, Lisa H. "Navigating Loss of Abortion Services — A Large Academic Medical Center Prepares for the Overturn of *Roe v. Wade*." *New England Journal of Medicine* 386, no. 22 (June 2, 2022): 2061–64. https://doi.org/10.1056/NEJMp2206246.

78 Lewandowska, Maria. "The Fall of *Roe v Wade*: The Fight for Abortion Rights Is Universal." *BMJ* 377 (June 29, 2022): o1608. https://doi.org/10.1136/bmj.o1608.

79 World Health Organization. "A Conceptual Framework for Action on the Social Determinants of Health." World Health Organization, 2010. https://apps.who.int/iris/handle/10665/44489.

to decreased abortion access[80] that will ultimately be detrimental to an individuals' physical health and lived environments. The Turnaway Study, conducted through the University of California, San Francisco, compared the outcomes of presumably cisgender women who were able to obtain an abortion and those who were denied one. The study revealed that pregnant individuals who wanted an abortion but were turned away fared worse in many aspects in their lives, including socioeconomic status, education, and physical and mental health.[81] When put in the context of pregnant people already living in marginalized communities, the denial to an abortion only perpetuates conditions of poverty and oppression. The study's results also showed individuals denied an abortion are more likely to stay tethered to abusive partners, less likely to have aspiration plans for the future, and pose further negative effects for the children born of the unwanted pregnancy and the existing children of the household.[82] Moreover, the effects of *Roe*'s overturn will disproportionately affect Black, Indigenous, and racialized communities, most especially those living in rural areas and low-income conditions, in terms of their physical health and socioeconomic conditions.[83]

Access to abortion, or rather the lack thereof, is an issue that transcends politics and medicine. Denial and inaccessibility to an abortion is a detriment to an individual's health, well-being, and the contexts they live in. In such a way, abortion regulation is a tool that is systematically being used to marginalize and oppress communities that have historically already and continue to experience the domination of white supremacy. Abortion control upholds the systems that seek to perpetuate the circumstances of Black, Indigenous, and other ethnic minority communities, in addition to the reproductive and bodily autonomy of people with uteruses. In the words of medical sociologist Dr. Ophra Leyser-Whalen, "Fighting racism is also reproductive justice, and fighting for abortion access is also fighting racism and misogyny."

III. Marginalized communities and abortion access inequities

Even though political control over abortion is a modern phenomenon, the earliest accounts of abortion appear in medical texts in China as early as 2500 BC under emperor Shen Nung and in the Ebers Papyrus in 1550 BC Egypt.[84] Up until the eighteenth century, abortion within the western world had been mainly kept to conversations among pregnant people and their caretakers, as it was originally a procedure performed by midwives. As gynecological advances were made during the nineteenth century, abortion provision flourished among midwives, natural healers, and physicians as it was largely unregulated by the law.[85] Promoted in newspapers and advertised in the pharmaceutical industry, it was the rise of Christianity during the 17th century that the open discussion of abortion became more and more denounced. The United States and Europe entered a "century of criminalization" during the mid-1800's to 1900's as religious congregations, politicians, and medical ethicists[86] sought to criminalize

80 Fuentes, Liza. "Inequity in US Abortion Rights and Access: The End of *Roe* Is Deepening Existing Divides." Guttmacher Institute, January 12, 2023. https://www.guttmacher.org/2023/01/inequity-us-abortion-rights-and-access-end-Roe-deepening-existing-divides.

81 Foster, Diana Greene. *The Turnaway Study: Ten Years, a Thousand Women, and the Consequences of Having—or Being Denied—an Abortion*. Simon and Schuster, 2021.

82 Foster, Diana Greene. *The Turnaway Study: Ten Years, a Thousand Women, and the Consequences of Having—or Being Denied—an Abortion*. Simon and Schuster, 2021.

83 Fuentes, Liza. "Inequity in US Abortion Rights and Access: The End of *Roe* Is Deepening Existing Divides." Guttmacher Institute, January 12, 2023. https://www.guttmacher.org/2023/01/inequity-us-abortion-rights-and-access-end-Roe-deepening-existing-divides.

84 Joffe, Carole. "Abortion and Medicine: A Sociopolitical History." *In Management of Unintended and Abnormal Pregnancy*, edited by Maureen Paul, E. Steve Lichtenberg, Lynn Borgatta, David A. Grimes, Phillip G. Stubblefield, and Mitchell D. Creinin, 2. Oxford, UK: Blackwell Publishing Ltd., 2009.

85 Joffe, Carole. "Abortion and Medicine: A Sociopolitical History." *In Management of Unintended and Abnormal Pregnancy*, 2.

86 The onset of medical ethicists were elicited by the ethical considerations about abortion. Removed from the context of medical procedure, individuals grew to consider the ethical ramifications between killing life and doing no harm to the pregnant person.

abortion.[87] However, despite its lack of legalization, abortion continued to happen through "back alley butchers," underground abortion providers that often practiced in unsafe conditions,[88] and coathangers, objects many individuals used to self-abort.[89] These approaches became symbolic of the dangerous lengths pregnant people would go to receive an abortion.

While the *Roe v. Wade* decision did alleviate the criminality of administering and receiving an abortion, the case was still leaving out an immense demographic—poor pregnant people and pregnant people of color. From 1972 to 1987, abortion mortality decreased as a whole; however, Black and minority pregnant people still experienced 2.5 times the risk of death compared to white pregnant people.[90] This is further implicated by data from the Centers for Disease Control and Prevention from 1988–1990 that revealed the amount of Black pregnant individuals that received an abortion doubled compared to white pregnant people, while the amount of pregnant people of other races were 1.5 times greater than white pregnant people.[91] As such, there was a more urgent need for Black and ethnic minorities to receive an abortion, yet the medical systems in place make it such that communities of color still face the most danger within these clinical settings—this disparity continues into the present. Despite its legalization, abortion proved to be only *safely* accessible to a select few across the United States. Now, with the *Dobbs* decision overturning the ruling of *Roe v. Wade*, the detrimental effects of abortion's illegalization will be disproportionately experienced by pregnancy-capable people of color, especially those who are low-income, and reside in geographical locations of inadequate access.

A. Intersectionality and abortion

Intersectionality is a method, disposition, and analytical tool that describes the "interdependent phenomena of oppressions" based on race, gender, class, sexuality, and other social categories.[92] The term was coined by Black feminist and critical race scholar Kimberle Crenshaw, alongside other feminist scholars, who recognized that mainstream feminism was dominated by and catered to white, presumably cisgender women, while civil rights groups privileged leadership and space to Black and other presumably cisgender *men* of color.[93] Intersectionality examines how different systems of oppression are interwoven to create multi-layered experiences of oppression based on an individual's identified social categories. Intersectionality recognizes that cisgender women of color, by being part of two subordinate groups (cisgender women and people of color), are especially at risk for oppressive experiences. As Anne Sisson Runyan writes, "gender is always 'raced' and race is always gendered."[94] The method and lens of intersectionality is necessary in considering how marginalized groups are affected by the *Dobbs* decision and the inaccessibility of abortion.

When assessing the issue of abortion holistically, abortion data and policies reveal the same inequities they did nearly fifty years ago before the decision of *Roe*.[95] Low-income pregnant people of color are continually put in the most vulnerable position of inaccessibility. The *Dobbs* decision will only maintain this disparity if not increase it.

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87 Joffe, Carole. "Abortion and Medicine: A Sociopolitical History." *In Management of Unintended and Abnormal Pregnancy*, 2.

88 Flavin, Jeanne. "Our Bodies, Our Crimes: The Policing of Women's Reproduction in America." *NYU Press*, 2008.

89 Joffe, Carole. "Abortion and Medicine: A Sociopolitical History." *In Management of Unintended and Abnormal Pregnancy*, 3.

90 Lawson, H. W., A. Frye, H. K. Atrash, J. C. Smith, H. B. Shulman, and M. Ramick. "Abortion Mortality, United States, 1972 through 1987." *American Journal of Obstetrics and Gynecology* 171, no. 5 (November 1994): 1365–72.

91 Koonin, Lisa, Jack Smith, and Merrel Green. "Abortion Surveillance -- United States, 1992." Accessed January 12, 2023. https://www.cdc.gov/mmwr/preview/mmwrhtml/00041486.htm.

92 Runyan, Anne Sisson. "What Is Intersectionality and Why Is It Important?" *Academe* 104, no. 6 (2018): 10.

93 Runyan, Anne Sisson. "What Is Intersectionality and Why Is It Important?" 10.

94 Runyan, Anne Sisson. "What Is Intersectionality and Why Is It Important?" 10.

95 Harned, Elizabeth, and Liza Fuentes. "Abortion Out of Reach: The Exacerbation of Wealth Disparities After *Dobbs v. Jackson Women's Health Organization*." *The American Bar Association* 48, no. 2 (2023). https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/wealth-disparities-in-civil-rights/abortion-out-of-reach/.

The inaccessibility of abortion stems beyond the issue of legality and welfare. The *Dobbs* decision will impose enduring damage to the health of pregnant people forced to carry pregnancy to term as they face the financial and emotional stress of child-bearing and are scrutinized in the face of abortion's criminalization.[96] With the reversal of *Roe* and the increased stress across socioeconomic class, race, and location, pregnant people are put in the immense position of greater mental, emotional, and physical burden that can ultimately catalyze further detriments to their health if they are already not seeking riskier alternatives to an abortion.

The *Dobbs* decision reversed not only the constitutional right to an abortion but also led to an immediate decline in the numbers of abortions.[97] As a result of the *Dobbs* decision, people seeking an abortion must travel far distances, seek self-managed treatment, or forgo care altogether.[98] Yet, the issue at hand stems farther than just the increased burden to seek an abortion. Despite the increased burden for all pregnant people in the wake of *Dobbs*, low-income, pregnant people of color residing in rural states are unequally faced with greater barriers to access.

B. Class

In the United States, mobility allowed by one's socioeconomic class is inextricably linked to race. To discuss maternal health, abortion, and mother-infant mortality in the context of race calls for taking into consideration how socioeconomic class influences the same statistics.

The Hyde Amendment was passed only three years after the *Roe v. Wade* decision. It restricted and reduced federal funding for abortion for pregnant people receiving Medicaid; the only exceptions were in cases of rape, incest, or if the pregnant person's life was endangered.[99] Because Medicaid is both a state and federal program, funding for abortion and restrictions were left primarily to the discretion of state legislature as long as they followed the Hyde Amendment restrictions. Effects of the amendment, especially in states that abided by the restriction minimally, were rapid. In 1978, the fiscal year following the implementation of the Hyde Amendment, the proportion of unmet need for Medicaid-eligible pregnant individuals in need of abortion was fifty-five percent—a significant increase from thirty-on percent from the previous year.[100] In recent years, the class disparity of abortion has widened. In 2014, a Guttmacher Institute study reported fifty-three percent of abortion patients paid for abortions out-of-pocket, regardless of insurance. From the same study, Medicaid was revealed to be the second most common payment, while ninty-six percent of those patients lived in the fifteen states that utilized state funds to cover abortions.[101]

The Hyde Amendment and Medicaid are integral topics of discussion in terms of marginalized communities and abortion due to the majority demographic that Medicaid serves - and thus,are at greater risk of being harmed by restrictions enacted by the amendment. Pregnant people of color are more likely than white pregnant people to be enrolled in Medicaid.[102] Furthermore, unintended pregnancy has only become more concentrated among low income patients.[103] In 2014, forty-nine percent of abortion patients reported income under the poverty threshold,

96 Nguyen, Simar Bajaj, Daniel Ahmed, and Fatima Cody Stanford. "Protecting Marginalized Women's Mental Health in the Post-*Dobbs* Era," 2022. https://doi.org/10.1073/pnas.2212012119.

97 Society of Family Planning. "#WeCount Report: April 2022 to December 2022," April 2023. https://doi.org/10.46621/143729dhcsyz.

98 Jones, Rachel K., Marielle Kirstein, and Jesse Philbin. "Abortion Incidence and Service Availability in the United States, 2020." *Perspectives on Sexual and Reproductive Health* 54, no. 4 (December 2022): 128–41. https://doi.org/10.1363/psrh.12215.

99 Engstrom, Alyssa. "The Hyde Amendment: Perpetuating Injustice and Discrimination after Thirty-Nine Years Note." *Southern California Interdisciplinary Law Journal* 25, no. 2 (2016): 451–74.

100 Gold, Rachel Benson. "After the Hyde Amendment: Public Funding for Abortion in FY 1978." *Family Planning Perspectives* 12, no. 3 (1980): 131–34.

101 Jerman, Jenna, Rachel K. Jones, and Tsuyoshi Onda. "Characteristics of U.S. Abortion Patients in 2014 and Changes Since 2008," May 10, 2016. https://www.guttmacher.org/report/characteristics-us-abortion-patients-2014.

102 Hill, Latoya, Samantha Artiga, and Usha Ranji. "Racial Disparities in Maternal and Infant Health: Current Status and Efforts to Address Them." *KFF* (blog), November 1, 2022. https://www.kff.org/racial-equity-and-health-policy/issue-brief/racial-disparities-in-maternal-and-infant-health-current-status-and-efforts-to-address-them/.

103 "Unintended Pregnancy in the United States." Guttmacher Institute, January 2019. https://www.guttmacher.org/fact-sheet/unintended-pregnancy-united-states.

which is a five percent increase since 2008. Additionally, another twenty-six percent of abortion patients had income of 100-199% below the federal poverty line.[104] That same year, abortion had a median cost of $1,195 when conducted on pregnancies that reached twenty weeks, not taking into account additional nonmedical costs such as childcare and transportation.[105]

Integrated into reproductive legislation is a "backdoor" to decreasing abortion access. Also seen in the racial abortion gap, the effect of varying socioeconomic status also experience the same collateral damage. With the overturn of *Roe v. Wade* and the loss of protected rights to abortion comes the influx of even more financial hurdles that come with accessing an abortion. As some states seek to fully criminalize abortions, pregnant people are put in the position to find abortion opportunities elsewhere. The safest option would be for people to travel to states that have abortion protection laws and seek procedures there. Of course, this is only practical for the people who can afford to travel, take time off of work, and potentially find childcare.

C. Race and ethnicity

It is difficult to discuss the disparities across pregnancy-capable people's health and abortion access among people of color without addressing the bigger fight against medical racism. Reproduction has been and is racialized in the United States.

Modern-day America's knowledge about reproduction benefits from the exploitation of Black enslaved pregnancy-capable individuals. Dr. James Marion Sims, the "Father of Gynecology," became notable through his work on vesico-vaginal fistula, which is the abnormal opening between the bladder and vagina often caused by prolonged childbirth. His experimentation included Anarcha, an enslaved person, whose body was used for trial surgeries without the use of anesthesia, which was new yet available to Dr. Sims during the time of his trials.[106] Following Anarcha, Lucey and Betsy became two more enslaved individuals with vesico-vaginal fistulas who became subject to Dr. Sims' research. Leading up to his breakthrough in reproductive medicine, Dr. Sims' work was made possible through experimentation on many enslaved pregnancy-capable people; the story of Lucey, Betsy, and Anarcha became the face of the many African American people that inhumanely became test subjects for the revolutionary progress in obstetrics and gynecology. However, putting Dr. Sims into the context of his time, professor of philosophy Diana E. Spelman writes, "stoic acceptance of pain was seen as 'natural' for women in childbirth and attributed to slaves especially" to provide the societal values that the field of medicine, especially being dominated by white, cisgender men at the time, perceived the field of "women's medicine."[107] This sheds light on the context surrounding minority pregnant people at the time that continues to the present day.

Those consequences are seen in the reproductive health and abortion inequities faced today. Since the decision of *Roe v. Wade* in the 1970s, the rates of abortion have been declining, due to both the decriminalization of abortion and the increased access to contraceptive use. However, the caveat is that the "long-lasting reversible contraceptives" that aided in the decline of abortion rates had "particularly given better-off women more reproductive security."[108]. These "better-off women" failed to include many pregnant people of color, including those who lived in rural communities, and were low-income. Therefore, despite the revolutionary step in reproductive health made by the *Roe* decision, the root issue of disparity still remained.

Moving forward to the present day, the *Dobbs* decision in June of 2022 reversed *Roe v. Wade* such that abortion is no longer constitutionally protected. The overturn of *Roe* furthers the question of accessibility. In

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104 Jerman, Jenna, Rachel K. Jones, and Tsuyoshi Onda. "Characteristics of U.S. Abortion Patients in 2014 and Changes Since 2008," May 10, 2016. https://www.guttmacher.org/report/characteristics-us-abortion-patients-2014.

105 "Medicaid Coverage of Abortion." Guttmacher Institute, December 21, 2016. https://www.guttmacher.org/evidence-you-can-use/medicaid-coverage-abortion.

106 Axelsen, Diana E. "Women as Victims of Medical Experimentation: J. Marion Sims' Surgery on Slave Women, 1845-1850." *Sage* 2, no. 2 (Fall 1985): 10–13.

107 Axelsen, Diana E. "Women as Victims of Medical Experimentation: J. Marion Sims' Surgery on Slave Women, 1845-1850." 10–13.

108 Kulczycki, Andrzej. "*Dobbs*: Navigating the New Quagmire and Its Impacts on Abortion and Reproductive Health Care." *Health Education & Behavior* 49, no. 6 (December 1, 2022): 925.

a survey of over 6,000 pregnancy-capable individuals, abortion patients in restricted states, or states that have implemented abortion bans or restrictions, were more likely to be Black, paying out of pocket, rely on financial assistance, or indicate that it was difficult to pay for an abortion.[109] Structural racism, through policymaking from the federal to local level, has produced and perpetuated economic inequities.[110] Given the socioeconomic inequalities, the existing disproportionate access experienced by pregnancy-capable individuals of marginalized communities will be exacerbated in this post-*Dobbs* era. However, it is not sufficient to say that race and class are the only determining factors in how, where, and at what rate minority pregnant people obtain access to abortion.

D. Geographic location

In addition to disparate accessibility among low-income and pregnant people of color, one's location of residence affects their ability to adequately receive an abortion. The aforementioned Hyde Amendment, as a whole, was an implicit means of limiting federal funding for abortion as it left deciding power to the state to determine how much money was allocated to abortion and how restrictive abortion coverage could be. More than forty years after the amendment was passed, only seventeen states utilize their own state funding to expand Medicaid coverage for abortion beyond Hyde restrictions. The remaining thirty-two states have banned the use of Medicaid coverage for abortions unless in circumstances outlined by the Hyde Amendment. Meanwhile, South Dakota, in violation of the law, only covers abortion when the pregnant person's life is endangered.[111] The Hyde Amendment is a historical example in how abortion accessibility has become so discrepant across the United States.

The present day takes us to an era of variability in abortion access across the United States that is largely determined by discrepancies in state and federal laws. The politicization of abortion has undeniably created a dichotomy between the liberal left that support abortion and the conservative right that seek to criminalize it. This dichotomy can be mapped out by the extent to which abortion rights are protected across the United States. The Center for Reproductive Rights has categorized states and their current abortion regulations into five categories: Expanded Access, Protected, Not Protected, Hostile, and Illegal. "Expanded Access" describes states that protect the right to an abortion through state constitution or statutes in addition to creating further access to care; California, Hawai'i, Oregon, Washington, Connecticut, Illinois, Minnesota, New York, New Jersey, and Vermont are the states in this category. "Protected" describes states where abortion is still protected but access to it is limited. "Not Protected" refers to states where abortions could continue to be accessible, but it is unprotected by state law and unclear whether that will change moving further with the reversal of *Roe*. "Hostile" refers to states having expressed wanting to prohibit abortion and, thus, have no state legislation to protect it. Lastly, "Illegal" is the category of states that completely illegalized abortion once the Supreme Court overruled *Roe v. Wade*: Idaho, South Dakota, Missouri, Kentucky, West Virginia, Tennessee, Alabama, Mississippi, Louisiana, Arkansas, Oklahoma, and Texas are states in this category.[112] The data reveals that the states with the most restrictive access to abortion—arguably, if there is any at all—are largely concentrated within the South. In a 2013 study on pregnancy, abortion, and birth among adolescent presumably cisgender women, states with the lowest proportion of pregnancies in presumed cisgender women aged fifteenth to nineteen ending in abortion included South Dakota, Kentucky, West Virginia, Arkansas, and Louisiana yet the highest unintended pregnancy rate of women under

109 Jones, Rachel K., and Doris W. Chiu. "Characteristics of Abortion Patients in Protected and Restricted States Accessing Clinic-Based Care 12 Months Prior to the Elimination of the Federal Constitutional Right to Abortion in the United States." *Perspectives on Sexual and Reproductive Health* (University of Ottawa), April 11, 2023.

110 Solomon, Danyelle, Connor Maxwell, and Abril Castro. "Systematic Inequality and Economic Opportunity." *Center for American Progress* (blog), August 7, 2019. https://www.americanprogress.org/article/systematic-inequality-economic-opportunity/.

111 Dennis, Amanda, Kelly Blanchard, and Denisse Córdova. "Strategies for Securing Funding for Abortion Under the Hyde Amendment: A Multistate Study of Abortion Providers' Experiences Managing Medicaid." *American Journal of Public Health 101*, no. 11 (November 2011): 2124–29.

112 Center for Reproductive Rights. "Abortion Laws by State." Center for Reproductive Rights. Accessed March 29, 2023. https://reproductiverights.org/maps/abortion-laws-by-state/.

twenty were found in Arkansas, Oklahoma, and Tennessee.[113] All the data becomes intersectional when we take into consideration the demographics of the largest minority in southern states—Black and Hispanic people.

Distance traveled is another integral aspect in assessing how geographic location influences abortion. In response to states enforcing stricter abortion policies, many pregnant people are forced to cross state lines to legally obtain an abortion. Even in states with less restrictive policies, abortion's accessibility is also determined by how many abortion-providing sites there are within a given area. Consistent with individual state legality regarding abortion, states like California, Washington, and New York have less than ten percent of reproductive-aged people with uteruses living in a county without a clinic. Meanwhile, abortion-restricted states such as Missouri, Mississippi, and West Virginia have more than ninety percent of people with uteruses living in a county without a clinic.[114] Therefore, depending on the state, many pregnant people are traveling at least across county lines to access an abortion facility. In a 2019 study on distance traveled to receive an abortion, white and "other"-identifying pregnant people were more likely to travel farther distances to obtain an abortion compared to Black, Hispanic, and Asian pregnant people.[115] Yet again, marginalized communities are exhibited being the most at-need yet the least served.

E. Incarceration

Outside of categories of race, class, and geographic location, people who are incarcerated experience disproportionate abortion access and reproductive injustice. The United States has one of the highest incarceration rates for women in the world. In a 2023 Prison Policy Initiative report, 172,700 women and girls were incarcerated in the United States. Over 3,000 of those women were pregnant upon entering prison and, of those 3,000, two-thirds of them had no health insurance at the time. Yet, only about half received any prenatal care in prison apart from a simple obstetric exam.[116] As one might assume, being incarcerated greatly impacts access to an abortion. In a 2016–2017 study on abortion incidence in American prisons and jails, of the state prisons that participated in the study and allowed abortion, two-thirds of those jails required pregnant individuals to pay.[117] Abortion costs are already, in itself, a barrier for non-incarcerated pregnant people to overcome. As such, with incarcerated people concentrated at the lowest end of the national income distribution,[118] abortion costs only make abortion more inaccessible for those who are already incarcerated. Furthermore, only half of the participating state jails allowed for abortions within both the first and second trimester while fourteen percent did not allow abortion at all.[119] The inadequate prenatal care within the system poses even greater danger to not only the fetus, but the pregnant person as well.[120]

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113 Kost, Kathryn, Isaac Maddow-Zimet, and Alex Arpaia. "Pregnancies, Births and Abortions Among Adolescents and Young Women in the United States, 2013: National and State Trends by Age, Race and Ethnicity," September 7, 2017. https://www.guttmacher.org/report/us-adolescent-pregnancy-trends-2013.

114 "US States Have Enacted 1,381 Abortion Restrictions since *Roe v. Wade* Was Decided in 1973." Guttmacher Institute, June 28, 2022. https://www.guttmacher.org/infographic/2022/us-states-have-enacted-1381-abortion-restrictions-Roe-v-wade-was-decided-1973.

115 Fuentes, Liza, and Jenna Jerman. "Distance Traveled to Obtain Clinical Abortion Care in the United States and Reasons for Clinic Choice." *Journal of Women's Health* 28, no. 12 (December 2019): 1623–31.

116 Kajstura, A, and W Sawyer. "Women's Mass Incarceration: The Whole Pie 2023." Accessed April 1, 2023. https://www.prisonpolicy.org/reports/pie2023women.html.

117 Sufrin, Carolyn, Rachel K. Jones, Lauren Beal, William D. Mosher, and Suzanne Bell. "Abortion Access for Incarcerated People: Incidence of Abortion and Policies at U.S. Prisons and Jails." *Obstetrics & Gynecology* 138, no. 3 (September 2021): 330.

118 Rabuy, Bernadette, and Daniel Kopf. "Prisons of Poverty: Uncovering the Pre-Incarceration Incomes of the Imprisoned." *Prison Policy Initiative*, July 2015. https://www.prisonpolicy.org/reports/income.html.

119 Sufrin, Carolyn, Rachel K. Jones, Lauren Beal, William D. Mosher, and Suzanne Bell. "Abortion Access for Incarcerated People: Incidence of Abortion and Policies at U.S. Prisons and Jails." 330.

120 Roth, Rachel. "Women's Rights Don't Stop at the Jailhouse Door." *In Interrupted Life: Experiences of Incarcerated Women in the United States*, edited by Rickie Solinger, Paula C. Johnson, Martha L. Raimon, Tina Reynolds, and Ruby C. Tapia, 242–45. Univ of California Press, 2010.

Outside of the prison and jail system, pregnant individuals who are on probation or parole also face significant barriers in the wake of *Roe*'s overturn. Approximately 666,000 women are on probation, a community-based incarceration alternative, or parole, the community service portion of one's sentence, on any given day in the United States.[121] People on parole and probation often face restrictions such as where they can travel and who they are associated with. As the *Dobbs* decision made abortion illegal in certain states and thus necessitating travel for those seeking it, the efficacy of abortion is curtailed as travel is restricted. Even if a request for interstate travel is made, the decision is ultimately up to the individual's supervision officer who may prioritize their own beliefs or delay the decision until it is no longer safe or legal to obtain an abortion out of state.[122] In addition to barriers of transportation, the majority of individuals on parole or probation make less than $20,000 annually and are still subject to regular probation fees.[123] Moreover, individuals are often un-insured as going to prison usually results in losing health coverage—making the costs of an abortion an added layer of inaccessibility to pregnant people on probation and parole.[124]

Taken altogether, pregnant people who are ethnic minorities, low-income, live in rural or politically conservative areas, and are incarcerated experience disproportionate access to abortion, which is only exacerbated by the *Dobbs* decision. Intersectionality ties the many social identities an individual has that could make them more vulnerable to systematic oppressions, including reproductive injustices. The inequities that marginalized communities face today are an indicator of the systems of oppression that exist and are perpetuated for as long as policies and legal decisions, such as *Dobbs*, continue to be upheld.

IV. The future of reproductive justice

Across systems, organizations, and communities in America, the future of reproductive freedom is unclear in the wake of the *Dobbs v. Jackson* decision. In the legal realm, despite the Supreme Court's ruling to put the issue of abortion in hands of the state, they—instead—face even more questions that are imposed on both the Court and courts across the nation.[125] Existing implications such as the right to travel and abortion criminalization are faced with further medical health care concerns like in-vitro fertilization, contraception, and miscarriage. In another light, the loss of school accreditation and medical practices and professionals are likely unforeseen consequences that state legislation may not be considering in the long term.[126]

For pregnant people that the *Dobbs* decision ultimately harms, the future is bleak. #WeCount is a time-limited report that captures the shifts in abortion, by state, since the Supreme Court ruling of *Dobbs*. In the study's comparison from the first two full months after the decision to a pre-*Dobbs* baseline, 10,600 fewer people had an abortion and there was a 95% decrease in abortion within states that banned or severely restricted abortion access.[127] This data is alarming as the same report also notes that, within the states where abortion remains legal, there was a comparatively small increase of eleven percent in reported abortion rates.[128] The study reveals that there is a dramatically large pool of vulnerable individuals not able to obtain an abortion. The future calls for the need for reproductive justice as many of those lacking access are more than likely to be of marginalized identities.

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121 Kaeble, Danielle. "Probation and Parole in the United States, 2020." Bureau of Justice Statistics, December 2021. https://bjs.ojp.gov/library/publications/probation-and-parole-united-states-2020.

122 Bertram, Wanda, and Wendy Sawyer. "What the End of *Roe v. Wade* Will Mean for People on Probation and Parole." *Prison Policy Initiative*, June 2022. https://www.prisonpolicy.org/blog/2022/06/30/Roe/.

123 Finkel, Prison Policy. "New Data: Low Incomes – but High Fees – for People on Probation." *Prison Policy Initiative* (blog), April 2019. https://www.prisonpolicy.org/blog/2019/04/09/probation_income/.

124 Bertram, Wanda, and Wendy Sawyer. "What the End of *Roe v. Wade* Will Mean for People on Probation and Parole."

125 Wald, Sarah. "What Is the Future of Reproductive Rights?" Harvard Kennedy School: Women and Public Policy Program, March 20, 2023. https://www.hks.harvard.edu/centers/wappp/publications/what-future-reproductive-rights.

126 Palacio, Herminia. "The future of reproductive justice with Hilary Pennington and Dr. Herminia Palacio." Video, October 21, 2022. https://www.fordfoundation.org/news-and-stories/videos/the-future-of-reproductive-justice-with-hilary-pennington-and-dr-herminia-palacio/.

127 Society of Family Planning. "#WeCount Report: April 2022 to December 2022," April 2023.

128 Society of Family Planning. "#WeCount Report: April 2022 to December 2022."

With the advocacy work and legislative policy done in the name of reproductive autonomy, could another *Roe* be expected? The abortion landscape is difficult to predict, especially in a time where its legality is left to states' discretion. However, it is not sufficient to say that, if *Roe* is ever reinstated, reproductive justice is in the clear and all is well. It is important to remember that the fall of *Roe* is not day one of reproductive injustice. Senior Vice President of the U.S. Programs at the Center for Reproductive Rights, Lourdes Rivera, stated, "protecting reproductive rights is not about overturning *Dobbs* to reinstate *Roe*, but about a framework that guarantees access as well as rights."[129] The oppression experienced by low-income, immigrant, queer people of color in the field of reproductive health is a product of a country built on institutions that are inherently misogynistic, xenophobic, homophobic, and nationalist.[130] These were the same oppressions that existed even under the protection of *Roe* and these inequities will not change unless greater work is put into the cause beyond reinstating what originally was there. As president and CEO of the Guttmacher Institute, Dr. Herminia Palacio, puts it, "a right, in and of itself, doesn't guarantee access."[131]

Now, the question remains of what is being done in the wake of the *Dobbs* decision and what solutions are being presented to those who face such harm. While there is no direct solution to alleviate the inaccessibility of abortion, there are ways in which its negative consequences are attempting to be reduced.

At the micro-level, harm reduction is one major approach that practitioners, caregivers, social workers, and all those who frequently interact with pregnant people guide abortions.[132] Abortion restrictions do not decrease abortion rates, but rather shift where they are happening, for whom, and how safe they are.[133] Far more urgency is put into ways in which abortion, no matter where and for whom, are safely executed. For abortion, harm reduction includes the unbiased and non-judgmental service of a practitioner as they provide risk assessments, safe self-administration education, and follow-up care.[134] While still in its early stages of delivery, harm reduction provides a means of education to pregnant individuals seeking an abortion meant to reduce the harm associated with self-induced abortion in addition to providing a standard of care that practitioners are able to offer in abortion's legal climate.

Communities play an integral role in the reproductive justice framework, as the approach analyzes the ways individuals are able to determine their reproductive destiny in the context of their lived conditions.[135] In recognizing this, another component of alleviating the negative effects of the *Dobbs* decision is through community-centered research and work. Through community-centered research, members of vulnerable communities are able to engage and influence policy decisions that directly impact them.[136] In current time, research is integral to how the effects of *Dobbs* are measured to display how policy influences people. There exists a great emphasis on centering the community as "centering and empowerment of those facing the greatest barriers to reproductive freedom requires a shift from conventional ways of thinking about research."[137] This "shift" is based on the notion of academia, when aiming to study marginalized identities, utilize a "rescue narrative" by attempting to rectify

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129 Yale Law School. "Lourdes Rivera '90 on the Future of Reproductive Rights." Yale Law School, October 7, 2022. https://law.yale.edu/yls-today/news/lourdes-rivera-90-future-reproductive-rights.

130 Mengesha, Biftu. "The Supreme Court's Abortion Ruling Upholds White Supremacy." *Scientific American*, November 1, 2022. https://www-scientificamerican-com.libproxy.berkeley.edu/article/the-supreme-courts-abortion-ruling-upholds-white-supremacy/.

131 Palacio, Herminia. "The future of reproductive justice with Hilary Pennington and Dr. Herminia Palacio." Video, October 21, 2022. https://www.fordfoundation.org/news-and-stories/videos/the-future-of-reproductive-justice-with-hilary-pennington-and-dr-herminia-palacio/.

132 Tasset, Julia, and Lisa H. Harris. "Harm Reduction for Abortion in the United States." *Obstetrics & Gynecology* 131, no. 4 (April 2018): 621.

133 Busette, Keon L. Gilbert, Gabriel R. Sanchez, and Camille. "*Dobbs*, Another Frontline for Health Equity." *Brookings* (blog), June 30, 2022.

134 Tasset, Julia, and Lisa H. Harris. "Harm Reduction for Abortion in the United States." 621

135 Ross, Loretta. "What Is Reproductive Justice?" *In Reproductive Justice Briefing Book: A Primer on Reproductive Justice and Social Change*, 4–5, 2007.

136 PAN. "What Is Community-Based Research?" *PAN*, 2023. https://paninbc.ca/research-and-evaluation/what-is-cbr/.

137 Eaton, Asia, and Dionne Stephens. "Reproductive Justice Special Issue Introduction 'Reproductive Justice: Moving the Margins to the Center in Social Issues Research.'" *Journal of Social Issues* 76 (May 30, 2020). https://doi.org/10.1111/josi.12384.

injustices experienced by individuals who are presumably unable to do so on their own.[138] By placing community members at the center of research and work, they become active participants and leaders in efforts made to benefit them. In doing so, not only do community members become more informed about the existing academic work surrounding their situation, researchers and practitioners are also able to be more informed about community-specific needs and knowledge. A specific example of this is the SisterLove Georgia Medication Abortion (GAMA) Project. GAMA is a community-led organization offering innovative and transformational methods for advancing sexual and reproductive health. SisterLove's community-led research utilizes guiding principles such as "honor multiple ways of knowing for knowledge justice," "build on strengths (not deficits) within the community," and "prioritize disseminating useful finds to community members first then to other audiences."[139] In turn, this approach has yielded dissemination of impactful community resources, capacity building within vulnerable communities and for community engagement among researchers, and policy-relevant data that is leveraged for community organizing and policy advocacy.[140] The SisterLove GAMA Project is a representation of how community-led research is a focal aspect to reproductive justice efforts through its production of timely and adequate evidence, and ability to return knowledge back to the communities most affected by reproductive oppression. Putting the community at the center of reproductive justice work is a direct response to the existing research, administration, and policy that is not designed to cater to equitable research that benefits the communities that need it most.

At its largest scale, the macro-level approach using the reproductive justice framework comes in the form of grassroots organizing, policy, and advocacy. In the light of the *Dobbs* decision, many reproductive health and justice organizations have come forward in providing timely data, resources, and knowledge surrounding the current abortion landscape across the nation. The Center for Reproductive Rights, a global legal advocacy organization, has provided up-to-date news on current reproductive health topics and keeps an updated database on abortion laws by state.[141] In a similar way, the Guttmacher Institute has provided the leading edge in current research and data in order to inform reproductive health policy.[142] The National Black Women's Reproductive Justice Agenda is a collaboration of eight Black women's reproductive justice organizations in order to build communities of Black activists working towards reproductive equity through advocacy and policy change, leadership development, and movement building.[143] And these are only a few of the prominent organizations at the forefront of reproductive justice work. Across the nation, many academic institutions have also put forward research in the ever-changing landscape of abortion and the effects of overturning *Roe*. Community groups have come together, sometimes vocal, and sometimes underground, in efforts of putting the ability to choose to become pregnant back in the rightful hands of reproduction-capable individuals. All in all, the work is expansive and revolutionary, yet still calls for more.

Reproductive justice is not confined to a framework followed by social workers, activists, medical professionals, researchers, or legal advocates. Reproductive justice challenges people to change their mindset by personally and politically asking to adopt a perspective that is opposed to the status quo.[144] Furthermore, it is not a movement solely confined to actions of those who identify as women or those who are able to be pregnant. The fight for reproductive freedom also calls for those who do not identify as women and who are not able to become

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138 Grabe, Shelly, Daniel Rodríguez Ramírez, and Anjali Dutt. "Reproductive Justice: The Role of Community-based Organizational Participation in Reproductive Decision-making and Educational Aspirations among Women in Nicaragua." *Journal of Social Issues* 76 (2020): 391–415.

139 Mosley, Elizabeth A., Sequoia Ayala, Zainab Jah, Tiffany Hailstorks, Dázon Dixon Diallo, Natalie Hernandez, Kwajelyn Jackson, Indya Hairston, and Kelli S. Hall. "Community-Led Research for Reproductive Justice: Exploring the SisterLove Georgia Medication Abortion Project." *Frontiers in Global Women's Health* 3 (August 12, 2022): 969182.

140 Mosley, Elizabeth A., Sequoia Ayala, Zainab Jah, Tiffany Hailstorks, Dázon Dixon Diallo, Natalie Hernandez, Kwajelyn Jackson, Indya Hairston, and Kelli S. Hall. "Community-Led Research for Reproductive Justice: Exploring the SisterLove Georgia Medication Abortion Project."

141 "Center for Reproductive Rights." *Center for Reproductive Rights*, April 9, 2023. https://reproductiverights.org/.

142 "Guttmacher Institute." Guttmacher Institute, 2023. https://www.guttmacher.org/.

143 "Mission, Goals, & Strategies – In Our Own Voice," *In Our Own Voice: National Black Women's Reproductive Justice Agenda*. 2023. https://blackrj.org/about-us/mission-goals-strategies/.

144 Forward Together. "Reproductive Health, Reproductive Rights, and Reproductive Justice Frameworks Comparison." *In Forward Together* (Formerly Asian Communities for Reproductive Justice). A New Vision for Advancing Our Movement., 2005.

pregnant. It is not a cisgender man's role to hand over reproductive justice. A cisgender man's role is "to either actively support women's efforts to expand reproductive justice, or get out of the way."[145] In doing so, the work that presumably cisgender men can do is limitless. They could make room for voices that were once infringed upon and lift up figures that were otherwise ignored and neglected. There is so much capacity in bringing forth the people that were overshadowed and utilizing privilege to provide for a cause that pushes for the accessibility of all. The same goes for white people. In committing to fight injustice, white people, in particular, are called to "shift power and resources" to the marginalized communities that are disproportionately harmed.[146] Moving people of color into positions of power allows for their increased ability to exercise their liberties, rights, and voices to make the changes necessary for the well-being of their communities.

The future of reproductive justice may be unclear but the goal of the framework still holds true. It does not only look at the means, but also focuses on the potential ends—which entail a freedom state where every pregnancy-capable person has the autonomy to choose to be pregnant, to not be pregnant, and to raise a child in living conditions that are safe and healthy.

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