

Submission to the United Nations
Universal Periodic Review of

United States of America

**RESPECTFUL MATERNAL CARE, BIRTH EQUITY and REPRODUCTIVE JUSTICE
In the United States**

Fourth Cycle
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Human Rights Council
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Submitted by: The National Birth Equity Collaborative; creates transnational solutions that optimize Black maternal, infant, sexual and reproductive well-being.

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I. Summary

1. The legacy of Colonization, Eugenics and White Supremacy are resurfacing in reproductive health, rights, and justice in the United States. This continued alarming and relentless attack is in violation of the rights to life, equality, health (including sexual and reproductive health), privacy, information, freedom from discrimination and violence, and freedom from torture, cruel, inhuman and degrading treatment, among others.
2. Since the United States' last UPR, the political and policy landscape in the U.S. for reproductive rights and justice has worsened dramatically, resulting in a significant retrogression of rights, with a particularly harmful impact on maternal and child health outcomes for Black birthing people. .
3. This retrogression of rights has resulted in limits on access to health care and health care information; worsening birth outcomes with worsening gaps by race; refusals to provide reproductive health care based on religious or moral beliefs; attacks on access to abortion; lack of respectful maternity care, as well as in reproductive atrocities and family separation in immigration facilities and criminal detention; and imposition of the Helms Amendment and Global Gag Rule.
4. U.N. human rights treaty bodies and independent experts have firmly established and consistently recognized that reproductive rights are human rights, grounded in the Universal Declaration of Human Rights and the core human rights treaties.
5. The Committee on Economic, Social and Cultural Rights has noted the importance of avoiding retrogressive measures in the area of sexual and reproductive health and rights,

including the imposition of barriers to sexual and reproductive health information, goods, and services.

II. U.S. Legal Framework and Summary of Prior Recommendations to the United States

6. In the United States, the constitutional right to abortion was overturned in 2022 *DOBBS, STATE HEALTH OFFICER OF THE MISSISSIPPI DEPARTMENT OF HEALTH, ET AL. v. JACKSON WOMEN'S HEALTH ORGANIZATION ET AL.*. The right had been established by the U.S. Supreme Court in 1973 in *Roe v. Wade*,¹ and the Court had repeatedly affirmed the right, including in *Whole Woman's Health v. Hellerstedt*.² https://www.supremecourt.gov/opinions/21pdf/19-1392_6j37.pdf

7. Currently about half of US states severely restrict access to reproductive health care, and a number of state legislatures are enacting increasingly extreme and unconstitutional abortion bans and restrictions since the election of Donald Trump,

8. The U.S. Constitution does not explicitly protect the right to health. Healthcare in the United States is available through a patchwork of private and public coverage.

9. Because the U.S. has a federalist form of government, both federal and state laws regulate health care access. Numerous federal and state statutes in the U.S. address various aspects of non-discrimination, physical access, affordability, and coverage of healthcare, including sexual and reproductive healthcare.

10. The U.S. has ratified international instruments that commit the United States to ensuring sexual and reproductive rights, including the International Covenant on Civil Political Rights (ICCPR), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), and the Convention Against Torture. The U.S. has signed but not ratified the Convention on the Rights of Persons with Disabilities (CRPD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

11. U.N. bodies have long recognized that reproductive rights are systematically undermined in the U.S. by persistent barriers to equitable healthcare access for marginalized communities.¹ This has only worsened since the U.S.'s last UPR review in 2020.

At the U.S.'s last UPR review in 2020 (3rd Cycle) (prior to the overturn of federal constitutional protections for abortion in 2022), the U.S. received multiple recommendations about access to sexual and reproductive healthcare and ending racial discrimination in policing and the justice system, echoing recommendations that were made during the 2d Cycle.²

Despite the U.S.'s support of the recommendations, there has been a significant deterioration since the 3rd Cycle review. In 2022, U.N. experts condemned the regression of already unstable reproductive rights in the U.S. after the Supreme Court overturned federal abortion protections.³

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² UPR (2d Cycle 2015) (sexual and reproductive health care [176.100, 176.164] discrimination and profiling in justice system [176.121, 176.130, 176.131, 176.137, 176.140, 176.141, 176.143, 176.144, 176.145, 176.146, 176.148, 176.149, 176.150, 176.151, 176.152, 176.153, 176.159, 176.160, 176.161, 176.220])

³ Michelle Bachelet (UN High Commissioner), **Bachelet on US ruling on Dobbs v Jackson Women's Health Organization**, United Nations Human Rights Office of the High Commissioner, <https://www.ohchr.org/en/statements/2022/06/bachelet-us-ruling-dobbs-v-jackson-womens-health-organization> (June 24, 2022); Working Group on Discrimination Against Women and Girls: Melissa Upreti (Chair), Dorothy Estrada Tanck (Vice-Chair), Elizabeth Broderick, Ivana Radačić, and Meskerem Geset Techane; Tlaleng Mofokeng, Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health; and Reem Alsalem, Special Rapporteur on violence against women, its causes and consequences, **Joint Web Statement by UN Human Rights Experts on Supreme Court Decision to Strike Down Roe v. Wade**, United Nations Human Rights Office of the High Commissioner, <https://www.ohchr.org/en/statements/2022/06/joint-web-statement-un-human-rights-experts-supreme-court-decision-strike-down> (June 24, 2022).

In 2023 and 2024, the UN Committees overseeing compliance with the Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights specifically recommended that the U.S.⁴

- End the criminalization and the imposition of criminal sanctions on people who have abortions, health care providers and those who assist them;
- Consider adopting the WHO Abortion Care Guidelines which explicitly prohibits direct and indirect criminalization;
- Eliminate racial disparities in the criminal justice system by reducing unnecessary criminal justice interaction, including by avoiding over-policing and by advancing alternatives to arrest and incarceration;
- Provide legal, effective, safe access to abortion; and
- Prevent and combat maternal mortality and morbidity and eliminate discrimination and disparities in the field of sexual and reproductive health and rights.

In light of information received about the impact of the Dobbs decision, the Human Rights Committee also recommended that the U.S.:

- Remove barriers impeding access to care including inter-state travel restrictions; and
- Ensure that patient confidentiality is observed and protect people seeking abortions from surveillance.

Finally, the Committees emphasized that the U.S. should take all measures necessary at the federal, state, local, and territorial levels to implement their recommendations.⁵

III. Discussion of the United States' Non-Compliance with Obligations

Racial Disparities in Maternal Mortality and Morbidity

12.. In the United States, Black and indigenous women suffer preventable maternal deaths at significantly higher rates than other women. With the highest maternal mortality ratio in the developed world, the U.S. is one of only thirteen countries where maternal mortality is on the rise.⁸⁹ This crisis disproportionately impacts Black women, who are nearly four times more likely than white women to suffer a maternal death,⁹⁰ and twice as likely to suffer maternal morbidity.⁹¹ Indigenous women are two and a half times more likely than white women to die from a maternal death.⁹² Low-income women, and women in poor rural areas are also disproportionately affected.⁹³ The majority of U.S. maternal deaths are preventable.⁹⁴

⁴ *Concluding Observations on the Fifth Periodic Report of the United States of America*, U.N. Doc. CCPR/C/USA/CO/5 December 7, 2023), ¶¶ 15, 27; *Concluding Observations on the Combined Tenth to Twelfth Reports of the United States of America*, U.N. Doc. CERD/C/USA/CO/10-12 (21 September 2022), ¶¶ 26-28, 36.

⁵ *Concluding Observations on the Fifth Periodic Report of the United States of America*, U.N. Doc. CCPR/C/USA/CO/5 December 7, 2023), ¶ 29; *Concluding Observations on the Combined Tenth to Twelfth Reports of the United States of America*, U.N. Doc. CERD/C/USA/CO/10-12 (21 September 2022), ¶ 36

13. In the U.S., racial and ethnic disparities in health are closely linked to social and economic inequalities, reflecting systemic obstacles to health that harm women of color especially. Factors such as poverty, lack of access to health care, and exposure to racism all undermine health and contribute to the disproportionately high number of maternal deaths among Black and indigenous women.⁹⁵

14. The Reproductive Justice Movement was founded by 12 Black women from the United States and we are currently celebrating this Human Rights based movements 30th anniversary. We assert 4 tenants: 1) that all people have the human right to have children, 2) not have children, 3) parent their children in safe and sustainable communities. At this moment of US and Transnational crisis in Maternal health, with facism, modern slavery, the overturning of the right to abortion, police violence, illegal deportations, and family separation, we demand the right to personal bodily autonomy.

15. The overturning of Roe v Wade with the Dobbs decision has resulted in increased maternal and infant deaths as we predicted in our Amicus Brief that for the first time showed the association of lack of abortion access to this poor US health outcome.
<https://reproductiverights.org/wp-content/uploads/2021/09/Birth-Equity-Organizations-Amicus-Brief.pdf>

IV. Suggested Recommendations:

Racial Disparities in Maternal Mortality and Morbidity

1. Guarantee access to and availability of affordable, accessible, acceptable, and quality comprehensive health-care services, free from racial bias, including expanded access to respectful maternal health services that encompass midwifery, doulas, and culturally competent, community-based models of care.
2. Improve government and health system accountability for preventing maternal deaths and eliminating racial disparities and engage communities in data collection and interpretation related to maternal mortality and morbidity and respectful maternity care.
3. Recognize and provide adequate resources to address the social determinants of health, including adequate housing, transportation, nutritious food, clean water and healthy environments, fair treatment within the criminal justice system, safety and freedom from violence, and equal economic opportunity.
https://www.unfpa.org/sites/default/files/resource-pdf/UNFPA_MM_Analysis-July2023.pdf
4. Passage of the Black Maternal Health Momnibus Act which directs multi-agency efforts to improve maternal health with a particular focus on racial and ethnic

minority groups, veterans, and other vulnerable populations. [S.1606 - Black Maternal Health Momnibus Act 118th Congress \(2023-2024\)](#)

5. Prmolgation of training and resources for Respectful Maternity Care which is a framework that both the World Health Organization and US Centers for Disease Control have highlighted as necessary for mothers to survive pregnancy and child birth. [Many Women Report Mistreatment During Pregnancy and Delivery | VitalSigns | CDC](#) [The Cycle to Respectful Care: A Qualitative Approach to the Creation of an Actionable Framework to Address Maternal Outcome Disparities](#)

