

# Criminalization and Punishment for Abortion, Stillbirth, Miscarriage, and Adverse Pregnancy Outcomes

## Report Summary

The Human Rights and Gender Justice Clinic, If/When/How, and Pregnancy Justice have authored a new report on *Criminalization and Punishment for Abortion, Stillbirth, Miscarriage, and Adverse Pregnancy Outcomes*. The report highlights human rights violations that occur when states pass laws that criminalize performing abortions and when state officials misuse other laws to surveil, investigate, arrest, detain, and prosecute pregnant individuals based on the perceived impact of their actions on their pregnancy.

Currently at least 33 states have criminal abortion laws. Sixteen states have made it a felony to perform an abortion at any stage of gestation, and providers can face sentences up to life imprisonment. While the rapid expansion of laws criminalizing the provision of abortion has created a human rights crisis, criminalization and punishment for self-managed abortions and adverse pregnancy outcomes is not new. From 2000 to 2020, at least 61 people were criminally investigated or arrested for ending their own pregnancies or helping someone else do so. In addition, from 2006-2020, more than 1,300 people were arrested in relation to their conduct during pregnancy. Prior to the *Dobbs* decision, these prosecutions regularly occurred through prosecutors' improper use of laws meant to protect pregnant people and children against them.

On September 12, 2023, HRGJ, If/When/How, Pregnancy Justice, the Center for Reproductive Rights, Birthmark Doula Collective, Changing Woman Initiative and We Testify submitted the report to the UN Committee on Human Rights to inform its review of the U.S.'s compliance with the International Covenant on Civil and Political Rights.

The report urges the Committee to recognize that

- Criminalizing abortion and adverse pregnancy outcomes violate the right to life because criminalization turns pregnant people away from needed health care and increases the likelihood that individuals resort to unsafe abortion or forgo needed health care;

**if**  
**when**  
**how**



- Health care providers have an obligation to respect the confidentiality of patients suffering obstetric emergencies, and making reports to law enforcement violates their patient’s right to life, right to privacy, and right to be free from torture and cruel, unhuman, and degrading treatment;
- Criminalizing behavior that is predominantly performed by women, like abortion, or criminalizing behavior because of pregnancy or a pregnancy outcome that is not similarly criminalized in any other circumstance per se constitutes gender discrimination; and
- Criminalization of people for obstetric outcomes disproportionately impacts Black and Indigenous women and women of lower socio-economic status who are subject to profiling and over-surveillance. Further criminal proceedings often rely on gender and racial stereotypes violating the rights to fair trial and access to justice.

The Committee’s review will take place from October 17-18 with formal Concluding Observations and Recommendations expected a few weeks later.