



For Immediate Release
Friday, June 24, 2022

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Supreme Court Overturns Constitutional Right to Bodily Autonomy in Transgressive Reproductive Rights Decision

Today, a conservative majority of the United States Supreme Court stripped the constitutional right to bodily autonomy from over a hundred million people by reversing nearly a half a century of legal precedent. In *Dobbs v. Jackson Women’s Health Organization*, in which the Court’s draft decision was previously leaked, the Court overruled its seminal decisions in *Roe v. Wade* and *Planned Parenthood v. Casey*, which had recognized that the Fourteenth Amendment’s liberty interest includes the right to terminate a pregnancy before viability. As Justices Breyer, Sotomayor, and Kagan recognized in a joint dissenting opinion, the Court’s decision “betray[ed] its guiding principles” and undermined its own legitimacy.

“The Court’s decision is a stark departure from principles of liberty, equality, privacy, and, importantly, *stare decisis*, which has traditionally bound courts to follow legal precedents set by previous decisions. In an outright abandonment of that guiding principle of the rule of law, today’s decision confirms that the Court has now adopted an alarming pattern and practice of ignoring *stare decisis* when it comes to fundamental rights. This is no longer the exception for this Court, but rather the transgressive rule,” said [Legal Defense Fund \(LDF\) President and Director-Counsel Janai S. Nelson](#). “Additionally, the Court’s disingenuous comparison to *Brown v. Board of Education* correctly overturning the ‘separate but equal’ doctrine of racial hierarchy and subjugation affirmed in *Plessy v. Ferguson* is an abominable affront to principles of equal protection and racial justice.

“Today’s decision leaves the regulation of reproductive rights entirely to the states. It is a historic loss of a core constitutional right—the fundamental reproductive right to choose if and when to have a child—and will have a dangerous ripple effect across the nation as states have already been positioning themselves to make abortion illegal and impose draconian penalties on those who provide access to abortions.

“The racial and economic justice implications are equally immense. Overturning reproductive rights will inflict a grievous harm on Black, Brown, and low-income people, who have relied on the right to an abortion at higher rates than other groups. As we know well, these are the very same communities that are severely impacted by systemic inequalities and unreliable access to health services, contraception, and comprehensive sexual education. Increased abortion access has also historically had a demonstrably positive economic impact on women, especially Black women. Today’s decision will go down in infamy as one of the most significant acts in undermining the credibility of the Supreme Court.”

The Institute for Women’s Policy Research found that abortion access increased college attainment for women, with “[i]ncreases in postsecondary attainment . . . concentrated among

Black women, who had much larger decreases in teen fertility than white women.” The same report also noted that abortion legalization in the 1970s, following the decision in *Roe v. Wade*, led to a 9.6% increase in Black women’s college graduation rate and that abortion access resulted in a 6.9% increase in Black women’s labor market participation rate, which was three times higher than the corresponding rate for women generally.

“Today’s decision is part of an ongoing and concerning erosion of the fundamental rights of Americans. The Court’s opinion will deprive nearly half of the United States’ population a fundamental right to bodily autonomy that has been settled for over two generations,” said LDF **Director of Litigation Sam Spital**. “It is perilous for a Court to abandon settled precedent on such a critical issue simply because of a change of membership, and it is a stark marker of both democratic backsliding and disrespect for the rule of law.”

In September 2021, LDF joined an [amicus brief](#) filed by the Leadership Conference on Civil and Human Rights and the Lawyers Committee for Civil Rights Under Law supporting *Roe* and *Casey*.

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