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Abortion Rights: More to the Story than the United States Constitution

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Abortion Rights: More to the Story than the US Constitution

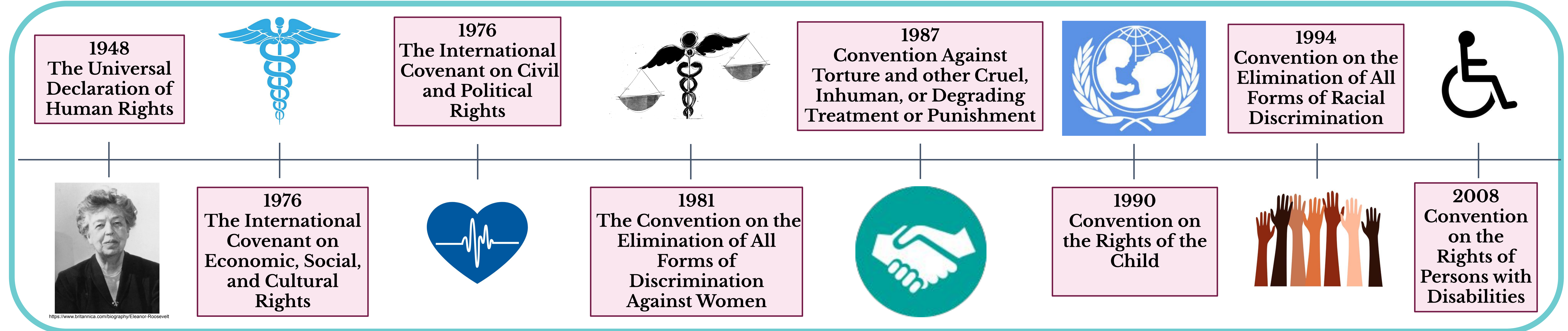
Abigail Connors



Argument
Multiple international human rights treaties protect safe abortion access, and by viewing abortion as a human right, the United States can possibly protect safe abortion access in the wake of *Dobbs v. Jackson Women's Healthcare Center*.

Methodology
This research employed an analysis of scholarly academic journal articles, first-hand work at the Broome County Public Defender's Office, and a legal analysis of international treaties.

What makes abortion a human right?



Prevent Extradition

The Problem

- Travel restrictions
- 2021: Missouri Bill SB 603
 - Applies Missouri restrictions outside the state in certain circumstances
- 2022: Missouri proposed bill allowing citizens to sue anyone assisting abortion travel
- 2023: Idaho = first state to pass law banning travel
 - Abortion trafficking crime
 - Helping minor travel in Idaho for abortion
 - Must travel in Idaho to leave state

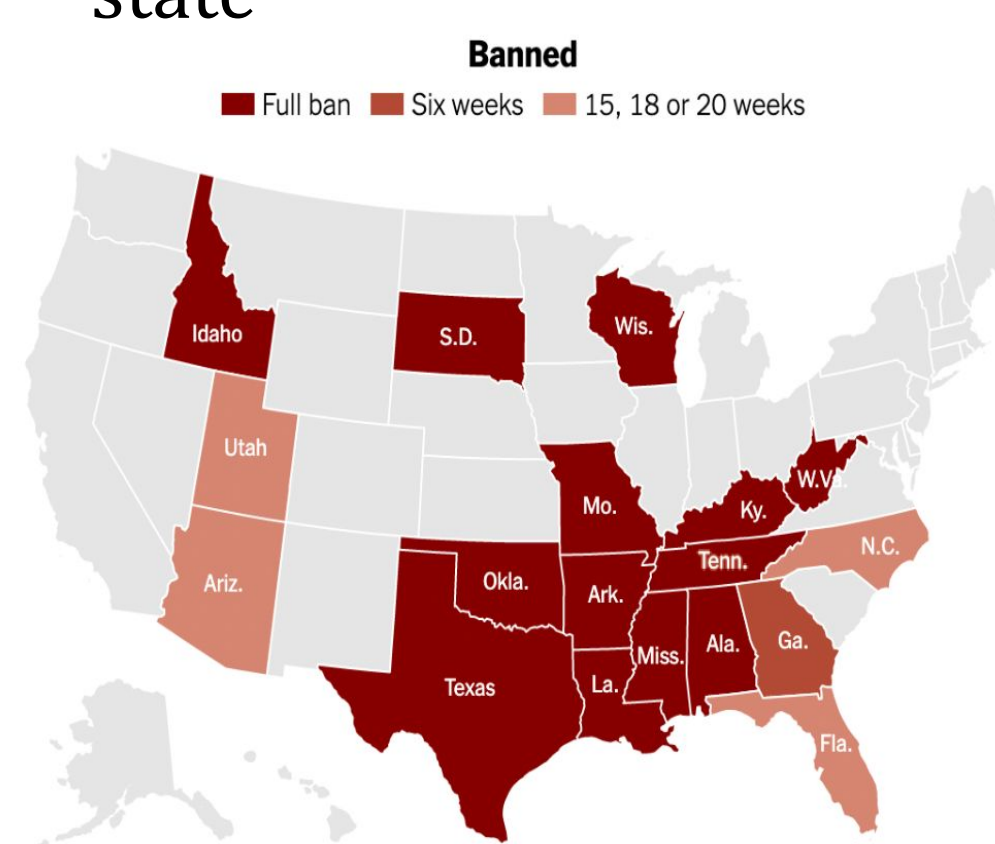
What scholars are proposing to help

- Precedent
 - Bigelow v. Virginia
 - Smith v. Turner; Saenz v. Roe
- The Constitution
 - Article IV, Section 2
 - Privileges and Immunities Clause
 - Citizenship Clause
 - Commerce Clause

Findings:

Human Rights Proposal

- International precedent for refusing extradition due to human rights
- Soering v. United Kingdom
- NG v. Canada
- Venezia death penalty case
- 3 premier non-governmental law associations agree
- Supreme Court of Ireland refused extradition - physical mistreatment



If we see abortion as a human right, we can ...

Implement National Law Protecting Abortion

The Problem

- Supremacy Clause
 - BUT Congress' current composition blocks a national law

Findings:

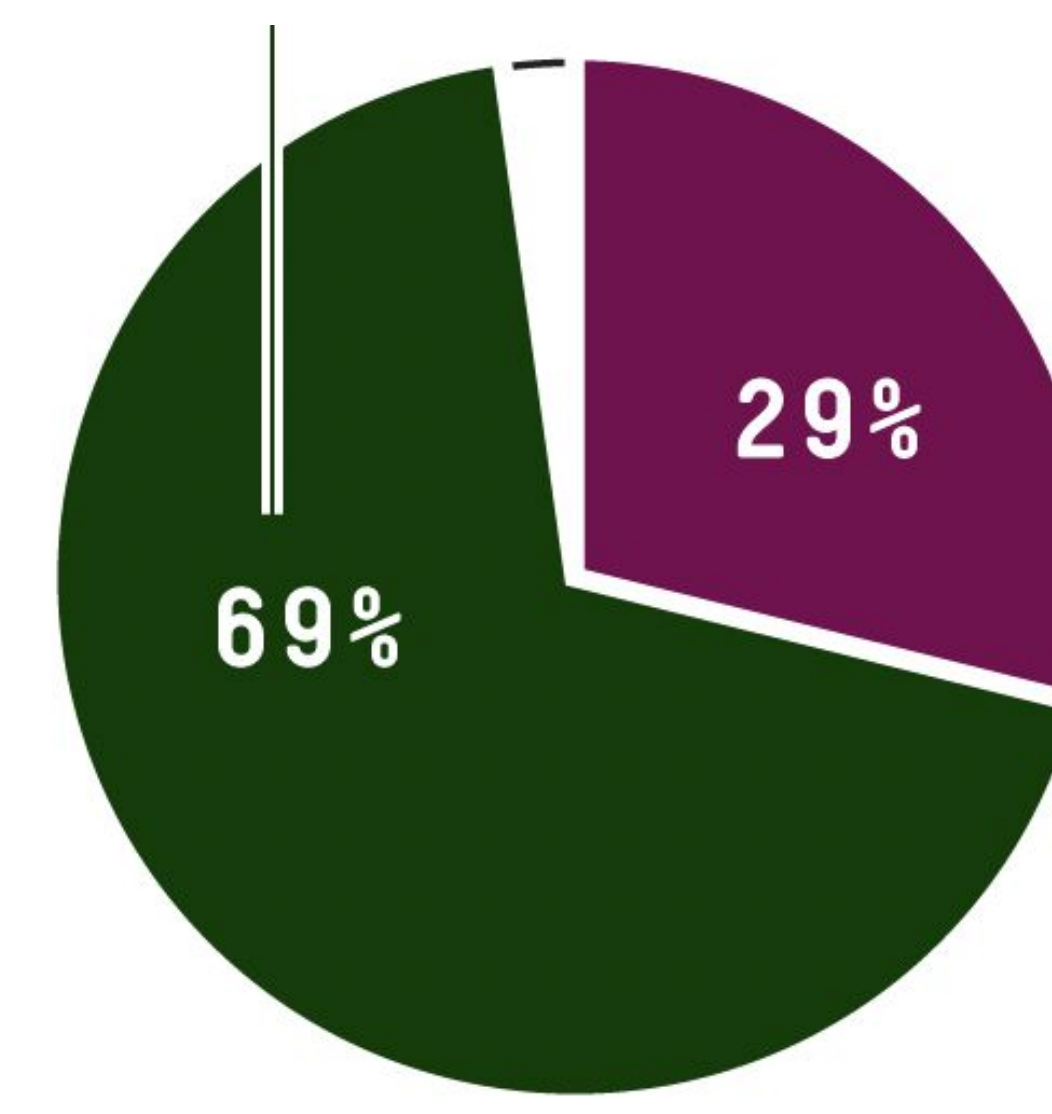
Human Rights Proposal

- States bound by "law of nations"
- Treaties = law of land
- United States v. Alvarez-Machain
- Missouri v. Holland
- Precedent of international treaties creating US Law
 - Child Soldiers Accountability Act = result of Optional Protocol on the Involvement of Children in Armed Conflict
- US didn't enforce laws prohibiting racial discrimination until UDHR
- Constitution doesn't limit treaty power

What scholars are proposing to help

- Can't restrict drugs more than FDA
- FDA requires REMS for abortion pill
- Any law more restrictive than REMS = prohibited
- FDA - eliminate REMS
- HIPPA: health info = private
- Building facilities on Federal land
 - Assimilative Crimes Act

Share of US adults who said they **would** or **would not** like to see the Supreme Court overturn Roe v. Wade



Contribute to stopping the perpetuation of discrimination

Findings

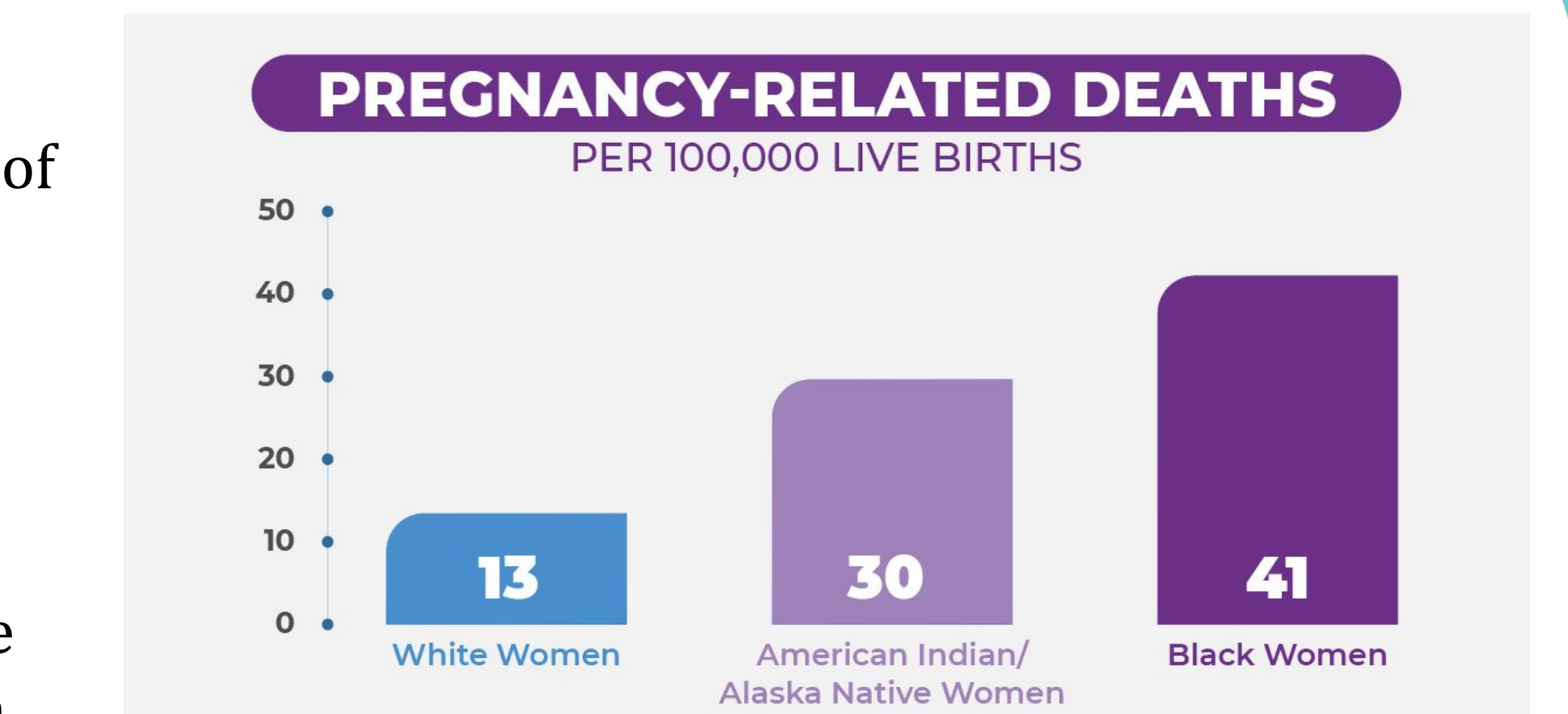
- Less access for low-income & people of color
 - Prosecuted disproportionately
 - Greater legal risks

Gender Inequality

- Restricts reproductive healthcare for women only
- Enforces idea that women = caregivers

Racial Inequality

- Pregnancies = most dangerous for people of color
- LGBTQIA+ people, disabled people, and immigrants also disproportionately impacted



Low-income Inequality

- 75% of abortion patients = low-income
- Traveling = expensive
- Hyde Amendment prohibits medicaid
- Title X of Social Security Act prevents federal funding for abortion

Welfare Caps

- TRAP laws over-regulate facilities

National Law Would Address This

- Reduce stigma
- Abortion accessible to all - combat discrimination

Study Limitations

The Dobbs ruling is very new, and so the scholarly conversation surrounding it right now is limited. In proposing new laws and dealing with extradition, there are many legal considerations that could not be addressed within the scope of this project.