



Criminalizing Choice: The Deadly Cost of Denying Abortion

"There are long-term negative consequences to not getting a wanted abortion... anywhere from economic instability and insecurity that can last for years, people are more likely to stay in contact with a violent partner or having severe health outcomes, including death, that they would not have had if they had the wanted abortion."

Jennie Wetter, RePROs Fight Back

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Welcome to Code WACK!, where we shine a light on America's callous healthcare system, how it hurts us and what we can do about it. I'm your host **Brenda Gazzar**.

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This time on **Code WACK!** How is America doing on sexual and reproductive health nearly three years after the Dobbs decision overturned Roe v. Wade? What are the real-life human rights consequences of abortion bans now sweeping across many states?

To unpack the fallout, we spoke with **Jennie Wetter**, Director of **rePROs Fight Back initiative** at the Population Institute, where she champions sexual and reproductive health, rights, and justice every day. Jennie also

hosts the *rePROs Fight Back* podcast, offering deep dives into abortion access, birth control, sex ed, LGBTQ+ rights, and more.

This is part one of a powerful two-part series with Jennie.

Welcome to Code WACK! Jennie.

Wetter: Thank you so much for having me.

Q: Thanks so much for joining us — we're really excited to have you on the show. So, rePROs Fight Back, an initiative of the Population Institute, just released its 13th annual 50-state report card on sexual and reproductive health and rights. It looks at things like access to birth control, sex ed, abortion, and gender-affirming care. And once again, the U.S. got an F — for the sixth year in a row. Can you give us a big-picture look at why that is, and how things have changed since before we started seeing these failing grades?

Wetter: Yeah, so we started doing the report card in 2012. So after, in 2011, there was a huge red wave through statehouses. You started seeing lots of attacks on sexual and reproductive health happening. But then you would also talk to people and they were a little unfamiliar with what was happening in their state and didn't know what, like all of the laws were in their own state. So we started the report card. Then we had three A's and nine F's in that first year. And if I remember correctly, I think the U.S. had a C or a C minus. So you can see like a lot has changed over the 13 years of the report card. And also important to note that the U.S. has had a failing grade for six years. Roe was only overturned three years ago, so we were failing when it comes to sexual and reproductive health, even before the loss of abortion rights. So we have not been doing good for quite a while.

Q: Wow. What are some of the main reasons that the U.S. had been failing even before Roe versus Wade was overturned? What were we seeing as a nation?

Wetter: Yeah. I think at the national level, we were seeing, there were lots of attacks on Title X depending on who was in office. So we would see public administrations attacking who could get Title X funding or trying to cut Title X funding. And that is

funding for family planning programs for people with low incomes. Planned Parenthood is often a Title X family planning provider. It's a really important program that makes sure that people can get the reproductive health services they need. And so that was a big part of it. But also we were just seeing this wave of restrictions on abortion that was really impacting your ability to access abortion kind of nationwide and so you could just see that increasing and increasing. And then this year, actually the last two years, we started adding in gender-affirming care for young people and so you have seen this huge attack on young people's ability to access best practice, gender-affirming care. That has also contributed to the overall U.S. failing grade in the last two years.

Q: Got it. So why are bodily autonomy and the freedom to access sexual and reproductive health so critical for a functioning democracy?

Wetter: Yeah. It's such a key value and your ability to decide what you're doing with your body impacts so many things. If you can't decide when or if you are gonna get pregnant, it makes it hard to plan to go to college. It makes it hard to plan out your career if you don't know if you're gonna be pregnant. It's hard to make those longer term plans and that impacts your economic security and same with abortion, right? If you have an unplanned pregnancy, that can derail your education or your job prospects. You may not feel that you're in an economic position to have kids at that time. So again, it impacts your political participation because you can't make those economic decisions for your future if you don't have control over your body. To me, it just seems so, so basic. It plays such an important role in your life, and I think because it is so basic in so many ways that people just don't even think about it. Right? You just assume you'll always be able to have these rights until they are taken away.

Q: I'm curious, how did you get involved in the field of reproductive health as an advocate?

Wetter: I went to Catholic school, kindergarten through eighth grade. I literally had sex ed from a nun. I can tell you like the harms of having non-medically accurate, not comprehensive sex education and shame-based sex education has on your ability to make healthy decisions throughout your life. That's one. And then two again, Catholic school. So I had a friend when I was in like, I don't remember, it was like fifth or sixth grade maybe, who asked me if I wanted to go with her and her family this weekend to go save babies in Madison. 'Yeah, I mean, obviously I want to go save babies, like people are killing babies? That's terrible. Let's do this.' And I went home and I asked my mom, and I

have this really vivid vision of her sitting me down at a table and doing very much the, 'well, okay, have you thought about what if the person is in this situation?'

And talked about just kind of some basics without getting into details of talking about abortion for age-appropriate, but 'have you thought about what if this person is in this situation, what if this is happening?' And then she did something that I think for me was like, genius. She didn't say, you can't go or whatever. She told me, if you still want to go, you can go and let me make the decision with the new information I had for myself. Talk about seeds that got planted along the way. They were not, they did not stoke my passion. They did not get me starting working in this field. But I went to college and studied environmental science and then I did a study abroad in Kenya focusing on environment and development. And so that got me working on global and thinking of how environment and development come together. And I got a job out of grad school working for a group called the Population Institute and started working on our repro stuff. And all of a sudden like, I can't imagine working on anything else. I found my passion and, you know, can bring my background of having poor sex ed and seeing the importance of making these own decisions for yourself and can bring that into my work and it, and it fires me.

Q: What a great story. So it's been nearly three years since Dobbs vs. Jackson Women's Health Organization reversed the constitutional right to abortion, and 16 states have completely or nearly banned abortion. How have the human rights consequences continued to unfold across the country?

Wetter: Yeah... there's so many different ways that you can see this and how different restrictions interact. So if you are in a state where abortion is banned, that means you need to travel out of state if you wanna access legal abortion. But that sounds so simple, but it's so complicated. It costs money. You may not be able to take that time off of work. It is not easy. There are economic implications to make that decision that many people may not have. So then they have to look at saying, okay, I have heard you can order pills online, so I'm gonna take the legal risk and get safe medication abortion shipped to me online, but put myself at legal jeopardy. So that's another option people have. But far too often people are being forced to carry pregnancies they didn't want.

And again, it may sound simple, but we know from the Turn Away study that was done by the University of California San Francisco, that there are long-term negative consequences to not getting a wanted abortion anywhere from economic instability and

insecurity that can last for years. People are more likely to stay in contact with a violent partner or having severe health outcomes, negative health outcomes, including death that they would not have had if they had had the wanted abortion. So we see all of that playing out in states.

And it really comes down to that your ability to access abortion rights in this country depends on where you live and the resources that you have. And that is a catastrophe. And we are seeing it also play out in ways where states have exceptions and that's heavily air quoted, right, where supposedly you can get an abortion when the life of the mother is at stake, but where is that line?

Where does the hospital draw that line where they don't feel like they're putting their doctors in the hospital legal jeopardy? And so you're seeing these cases of where basically they're having to play chicken and turn people away who are suffering miscarriages because the fetus still has a heartbeat even though they know they're not going to survive. And so the pregnant person continues to get sicker and sicker and sicker, and you have seen people die because of this game of chicken. And then you see states like Idaho who are fighting with the US government over a law that was passed, I think it was in the eighties called EMTALA, that says you can't turn people away. You have to take in people when they come to the emergency room and give them the care that they need to stabilize them. And the Biden administration clarified that that means if that stabilizing care is an abortion, you need to provide an abortion when their life and under EMTALA their health is at risk, so that narrows it, right? So it could be that you could lose your future fertility. There is more under that than like imminent death, which is how some states are interpreting it at the moment. Unfortunately, the Trump administration has since dropped that suit against Idaho. There is a hospital in Idaho that is trying to revive it. So it is an ongoing lawsuit, but we're really gonna see like, is the Supreme Court willing to let pregnant people die versus getting abortions that would save their lives?

The Supreme Court didn't rule on whether the EMTALA law overrides Idaho's abortion ban and left that decision to the lower courts. For now, the ban is partly on hold, so doctors in Idaho can still provide emergency abortions when needed to stabilize a patient, though some are reportedly reluctant to do so.

Q: Can people be held criminally liable if abortion is banned in their state and they travel to another state to have one? Or if they take the abortion pill in a state where it's banned?

Wetter: I think it just is all gonna come down to what that state is willing to prosecute. So often you see states say, 'we don't wanna go after the pregnant person. We are only gonna go after the providers, ' but you also do see pregnancy outcomes being criminalized, right? So somebody has a miscarriage, they think it was an abortion, you see states going after people for things like that. So again, you know, pre-Roe the conversation was unsafe. Abortions outside of like the medical context, and that's not really where we're at right now with medication abortion. You can get very safe pregnancy termination, but you do have some legal risk. And again, I think also really important that legal risk is not the same for everybody, right? So it is all too often you're gonna see people who are already minorities or who are already marginalized having more legal risk than like me, like a white woman.

Q: Have you heard of any cases yet where people have been prosecuted for taking the abortion pill in their state where abortion is banned?

Wetter: I think you've seen like transporting people out of state, you've seen states kind of trying to go after that. You've seen them trying to prosecute doctors out of state who are shipping pills. But you did see a lot of states that have protective abortion policies put in place policies to try and protect those doctors from being prosecuted out of state. And it's, it's gonna come down to a fight right between, I think right now Texas is trying to go after somebody who is based in New York. So it's coming down to a fight of New York is unwilling to extradite them or do anything. They're trying to protect the doctor. So it'll probably come up to the Supreme Court at some point.

Q: So what would you say are some of the biggest shifts, either positive or negative that you've seen in state policies over the past year?

Wetter: There aren't very many of them. So let's do a good news story. So under the Biden administration, two or three years ago, in their attempt to combat the maternal mortality crisis, particularly among Black women, the Biden administration had added expansion for Medicaid where states could expand their maternal health coverage for

one year postpartum under Medicaid. When we added this to the report card, I really thought it was gonna play out like Medicaid expansion under the Affordable Care Act, where you were gonna see some states rush to do it and other states not. But right now, right now all but two states have made that one year expansion to their Medicaid program for maternal health, which is amazing news. I really was not sure we were going to see that and right now Wisconsin and Arkansas are the only two states that have not done that one year expansion.

So I take that as amazing news. It is so important for maternal health and again, that good news does come with this caveat of we are looking at possible major slashing of the Medicaid program that is being talked about in budget conversations. So, you know, good news with a little bit of a storm cloud on the horizon. But at the moment, very good news.

I think the other place we've been definitely seeing movement is around the gender-affirming care bans. That has really, in the last like two years, you've really seen an uptick in states passing bans on best practice medical care for transgender minors. And again, that's a simple bodily autonomy fight. You were seeing the exact same people and the exact same fights that we saw under abortion. So I think a really important note in that conversation is attempts to ban abortion really started with passing those parental consent laws and parental notice laws and chipping at access for young people cause that's a place where people feel discomfort talking about sex and young people. And so you could start chipping away and once people got comfortable with that, then you could chip a little further. So just like a huge warning bell that it is not going to stop with trans minors and accessing gender affirming care. They're going to come for everybody's gender-affirming care. It is really important that that conversation where people have discomfort of talking about young people and transitioning, it's just the start. And they're using that as that wedge to split open the issue to like once you've started it's easier to continue. And so that is something we have really seen in the last couple years.

Thank you Jennie Wetter of RePROs Fight Back. Stay tuned for next week when we dive into the federal and political landscape of sexual and reproductive rights today.

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