

THE UPR PROJECT AT BCU



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About the UPR Project at BCU:

Birmingham City University's Centre for Human Rights was created in 2014 to promote human rights, ensure access to justice, and enhance the rule of law around the world. The Centre for Human Rights established the UPR Project in 2018 as part of our consultancy service. We engage with the Human Rights Council's review process in offering support to the UPR Pre-sessions, providing capacity building for UPR stakeholders and NHRIs, and the filing of stakeholder reports in selected sessions. The UPR Project is designed to help meet the challenges facing the safeguarding of human rights around the world, and to help ensure that UPR recommendations are translated into domestic legal change in member state parliaments. We fully support the UPR ethos of encouraging the sharing of best practice globally to protect everyone's human rights. You can read more about the UPR Project here: www.bcu.ac.uk/law/research/centre-for-human-rights/projects-and-consultancy/upr-project-at-bcu

Our Partners:

For this submission the UPR Project at BCU partners with the University of Worcester's Constitutions, Rights and Justice Research Group. The group seeks to foster a collaborative approach regarding how to talk about and conduct research on the nature of constitutions, different categories of rights (i.e., social, political, legal and employment) and the importance of justice in its many forms. It

brings together academics at the University and other institutions, legal practitioners and active and retired judges to work together on a myriad of issues and seek scope for collaboration within the wider academy and legal practice. The group's activity comprises publications, conferences, and research workshops, and public and community engagement. The group also hosts an annual public lecture, delivered by a prominent figure from the rights and justice community. The group also contributes to consultations, inquiries and other calls for evidence that fall within its remit.

We also partner with Pace University's Elisabeth Haub School of Law. The Elisabeth Haub School of Law is ranked #1 in Environmental Law by US News and World Report, and offers a J.D. program with concentrations in a variety of areas, including criminal law and procedure. It also offers LL.M. degrees in both Environmental and International Law, a series of joint degree programs, and a Doctor of Juridical Science (S.J.D.) in Environmental Law. The Law School is home to the Pace Criminal Justice Institute, which generates educational opportunities for students and promotes interdisciplinary collaboration among scholars, policymakers and practitioners locally, nationally and internationally. The Pace Criminal Justice Institute supports and encourages creative research, teaching, and discussion concerning the theory and practice of criminal law by those interested in advancing criminal law reforms and promoting the fair and ethical prosecution of crime.

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INTRODUCTION

1. There are nine core international human rights treaties,¹ of which the United States of America (US) is a party to three: the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), and the International Convention on the Elimination of All Forms of Discrimination (ICERD). The US has significantly restricted its implementation of these treaties through its attachment of reservations, understandings, and declarations (RUDs).² The US has also signed (but not ratified) the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), and the Convention on the Rights of Persons with Disabilities (CRPD).
2. There are aspects of the US legal and political structure that have the potential to complicate its ability to implement international human rights norms. The US Constitution binds the federal and state governments, and its Bill of Rights sets the scope of individual rights as interpreted by the US Supreme Court. While the US President can sign international treaties, for them to be part of federal law and thus binding on the states,³ they must be ratified by two-thirds of the US senate—a supermajority that is often difficult to achieve.⁴ As recent practice demonstrates, international agreements can be abrogated at will by the President.⁵
3. The US Constitution establishes a federal system in which power is distributed between the federal government and the states that have so-called police powers. This means that US states can enact their own laws governing environmental regulation and healthcare, provided these measures do not infringe upon any of the rights protected by the US Constitution.⁶ The fact that the federal government must respect the sovereignty of the states and their rights to regulate for the health, safety, morals, and the general welfare of citizens within their borders, has been raised by the US as a reason for failing to comply with international commitments.
4. However, as a matter of international law, no Member State can rely on domestic law (including its constitutional law)⁷ as an answer to a breach of its international obligations.⁸ All States, whether they are unitary or federal, have a general duty to bring national law into compliance with international law.⁹ Thus, although the federal government may not be able, under the US Constitution, to compel a US state to comply with the country's international human rights obligations, the US remains responsible in international law for non-compliance.
5. US engagement with the Universal Periodic Review to date has demonstrated resistance against implementing domestic change in line with global norms. In this submission we encourage the US to commit to improving its human rights protection and promotion by engaging meaningfully with the fourth cycle of the UPR in 2025. This includes giving full and practical consideration to all recommendations made by Member States,

effectively implementing the recommendations the US accepts, and actively engaging with civil society throughout the process.

6. This Stakeholder submission focuses upon:
 - a. Climate Change.
 - b. Access to Abortion.

CLIMATE CHANGE

A. USA and International Law on Climate Change

7. The UN believes that climate change is the “single biggest health threat facing humanity.”¹⁰ The US signed the Paris Agreement in November 2016 as part of global efforts to tackle climate change.¹¹ Under the Paris Agreement, the US committed to limiting the global temperature rise to well below 2°C, with an aim to limit the increase to 1.5°C.¹² However, the first Trump Administration (Jan 2017 – Jan 2021) withdrew from the Paris Agreement in November 2020,¹³ and attempted to reverse more than 125 environmental rules domestically.¹⁴ President Biden rejoined the Paris Agreement on January 20, 2021, on his first day in office¹⁵ and held the Leaders’ Summit on Climate Change in April 2021.¹⁶
8. Upon taking office for his second term on January 20, 2025, President Trump signed an executive order to withdraw the US from the Paris Agreement again.¹⁷ When the withdrawal takes effect in January 2026, the US will join Iran, Yemen, and Libya as the only countries that are not signatories to the Agreement.
9. ICESCR also promotes environmental justice, although the US has not ratified this treaty.¹⁸ The Intergovernmental Panel on Climate Change facilitated the adoption of the 1992 UN Framework Convention on Climate Change,¹⁹ the Kyoto Protocol in 1997,²⁰ and the 2015 Paris Agreement.²¹ The UN’s response to climate change is informed by the UN Special Rapporteur on Human Rights and the Environment, and both individual state and collective global social responsibility is encouraged and empowered through the UN Sustainable Development Goals. Particularly important for this submission is SDG No.13: Climate Action, which focuses upon taking “urgent action to combat climate change and its impacts.”²²

B. Implementation of Recommendations from Cycle Three in 2020

10. The US received 347 recommendations in total in Cycle Three, eight of which were regarding climate change.²³ A total of six recommendations were fully supported, one recommendation was supported in part, and one recommendation was noted.²⁴

US Adoption of International Law

11. **Paraguay** (para 26.5)²⁵ recommended that the US ratify the main international human rights treaties to promote Sustainable Development Goals 5, 11, 13 and 16. Paraguay's recommendation was supported, however, **this has not been implemented by the US.**
12. **Bahamas** (para 26.150)²⁶ and **Haiti** (para 26.152)²⁷ recommended that the US implement instruments to combat the impacts of climate change and strengthen its international cooperation. **Slovenia** (para 26.64),²⁸ **Fiji** (para 26.65),²⁹ and **Spain** (para 26.77)³⁰ recommended that the US reconsider the 2017 decision to withdraw from the Paris Agreement on climate change. The US supported these recommendations, and **the Biden Administration (Jan 2021 – Jan 2025) implemented them.**
13. The US rejoined the Paris Agreement in January 2020³¹ and engaged in international climate forums at COP26 in 2021, COP27 in 2022, COP28 in 2023, and COP29 in 2024. The US led on key climate change initiatives, including:
- COP26: the US launched the Global Methane Pledge, which 155 countries have signed.³²
 - COP27: the US agreed to create a fund to assist vulnerable nations to deal with the impacts of climate change.³³
 - COP28: the Biden Administration introduced strong measures to reduce methane emissions, and the EPA has proposed new rules to implement the methane emissions fee.³⁴
 - COP29: the US joined the Hydrogen pledge and committed to drive battery industry development in emerging economies.³⁵
14. However, given the second Trump Administration's (Jan 2025 – present) scheduled withdrawal from the Paris Agreement in 2026, it is likely that these progressive advancements will be scaled back. It is expected that executive orders will abolish many incentives to reduce fossil fuel use, potentially reversing the recent progress made in renewable energy across the US.³⁶ It has also been reported that President Trump is under pressure to withdraw the US from the UN Framework Convention on Climate Change (UNFCCC).³⁷ As the world's second largest emitter of greenhouse gasses, the US sets a critical example for other countries, and leaving the Paris Agreement could encourage others to do the same. In fact, the Guardian reported that Argentinian President Javier Milei was considering withdrawing from the Paris Agreement after

meeting with President Trump.³⁸ Additionally, such a move would diminish the US's influence in UN climate negotiations, limiting domestic action on climate change and reducing pressure on other major emitters, like China, in addressing climate change. Furthermore, exiting the Paris Agreement will mean that the US will not be legally required to report on its emissions each year and its responsibilities in assisting developing nations to address climate change will be weakened.³⁹

Domestic Law and Policy

15. **Fiji** (para 26.151)⁴⁰ recommended that the US intensify efforts to develop and strengthen the necessary legislative frameworks that address climate change. The US supported this recommendation and responded that addressing climate change was a core priority.
16. The Biden Administration **implemented this recommendation by** signing the Inflation Reduction Act into law in August 2022. The Inflation Reduction Act consolidates the Infrastructure Investment and Jobs Act (or Bipartisan Infrastructure Law) passed in 2021.⁴¹ Both pieces of legislation have led to the investment of billions of dollars in clean energy, electric vehicles, and environmental justice.⁴² The Inflation Reduction Act also advances the Justice40 Initiative, to deliver 40% of the overall benefits of climate and clean energy investments to marginalised communities. Hundreds of federal programs are being re-envisioned and transformed to maximise the Justice40 initiative goals.⁴³ In November 2024, the Department of Energy (DOE) announced over \$95 billion in funding to implement this landmark climate legislation.⁴⁴ The Environmental Protection Agency (EPA) announced \$2 billion to fund environmental and Climate Change Justice Community Change Grants, the largest single investment in environmental justice in US history and part of the \$3 billion provided by the Inflation Reduction Act to the EPA.⁴⁵ The EPA has since awarded \$325 million in Community Change Grants funding to over 20 projects to enable underrepresented communities to reduce pollution, increase resilience to climate change, and build community capacity.⁴⁶ President Biden also signed Executive Order 14008 which focuses on tackling the climate crisis domestically and internationally, as well as Executive Order 14096 which reinforces commitment to environmental justice.⁴⁷
17. The US has made considerable investments in domestic net-zero initiatives. The DOE launched the National Blueprint for a Clean and Competitive Industrial Sector to boost competitiveness, reduce emissions, and create a more equitable future. The DOE also released a report on pathways for a clean industrial sector and over \$10 billion has been invested across nine federal agencies to support green public procurement. Additionally, the DOE's national strategy aims to decarbonise the building sector by 2050, and \$158 million from the Bipartisan Infrastructure Law will fund projects for safe carbon storage. These efforts focus on energy efficiency, industrial

decarbonisation, and an inclusive workforce. The US' Sustainability Plan included goals to reduce the carbon footprint, transitioning to 100 percent carbon pollution-free electricity by 2030, 100 percent zero-emissions vehicle acquisitions by 2035, net-zero emissions by 2050, and investing \$240 billion in new clean energy manufacturing investments.⁴⁸

18. There are now significant concerns that the efforts made by the Biden Administration will be rolled back under the Trump Administration. During a meeting at Mar-a-Lago in 2024, President Trump asked oil executives to raise \$1 billion for his campaign, to support him in overturning the Biden Administration's push towards clean energy and electric vehicles in the US.⁴⁹ In January 2025, in addition to withdrawing from the Paris Agreement, an executive order by President Trump instructed federal agencies to pause grant payments made under the Inflation Reduction Act which, as noted above, led to significant investment in clean energy initiatives.⁵⁰ In March 2025, the newly appointed administrator of the EPA, Lee Zeldin, announced the Agency would be "driving a dagger straight into the heart of the climate change religion."⁵¹ The Agency's new measures include the reconsideration of regulation on power plants, the oil and gas industry, and wastewater for oil and gas development.⁵²

Engagement with UN Bodies regarding Climate Change

19. **Marshall Islands** (para 26.154)⁵³ recommended that the US should 'respond appropriately to the relevant recommendations made by the Special Rapporteur in the 2012 report on his visit to the US and the Marshall Islands on the implications for human rights of environmentally sound management and disposal of hazardous substances and wastes.' **This recommendation was not supported and has not been implemented.**

C. Further Points for the USA to Consider

Domestic Legislation for the Reduction of Greenhouse Gas Emissions and to Limit Emissions from Power Plant

20. Fossil fuels, used for electricity, heat, and transportation, are the largest sources of greenhouse gas emissions in the US. The Clean Air Act (CAA), passed in 1970, gave the EPA power to regulate greenhouse gases and the EPA has also been regulating greenhouse gas emissions from mobile and stationary sources.⁵⁴ President Biden committed to achieving net-zero emissions from power plants by 2035, reaching a net-zero emissions economy by 2050, and reducing greenhouse gas emissions by at least 50% by 2030 compared with 2005 levels. While these targets are ambitious, the US was on track to achieve them due to the comprehensive set of clean energy incentives established by the Inflation Reduction Act.⁵⁵ However, President Trump has signed executive orders to eliminate more than 70 climate change initiatives and has abolished the federal targets to reduce emissions and decarbonise by 2035.⁵⁶

Regulation of Motor Vehicle Exhaust Emissions

21. The CAA was a major step towards improving air quality and addressing health issues associated with air pollution. However, since the CAA was enacted in 1970, there has been a significant increase in car ownership in the US, amplifying these problems.⁵⁷ Section 202(a)(1) of the CAA requires the EPA to establish standards “applicable to the emission of any air pollutant from...new motor vehicles or new motor vehicle engines, which cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare.”⁵⁸
22. In 2021, President Biden signed an executive order directing federal agencies to purchase 100% zero emission light duty vehicles by 2027⁵⁹ and setting a target that required 50% of new passenger vehicles sold to have zero emissions by 2030.⁶⁰ To further reduce harmful emissions from the transportation sector, the EPA issued a final rule to reduce greenhouse gas emissions from passenger vehicles in model years 2023-2026. This will result in \$190 billion in net benefits in the pollution reduction, public health, and consumer savings.⁶¹ The state of California has set zero emission standards for passenger vehicles sold after 2035 and 12 additional states have followed suit.⁶²
23. An EPA report strongly recommends the full implementation of the Justice40 initiative, Inflation Reduction Act, and Bipartisan Infrastructure Law to reduce the disproportionate impact and long-standing obstacle towards advancing environmental justice caused by the transport sector.⁶³

Impact of Climate Change on Minorities

24. The EPA is tasked with protecting human health and the environment. However, it has been accused of persistent failures to protect the civil rights of minority communities concerning environmental justice.⁶⁴
25. Research shows that communities from low-income, minority, tribal, and indigenous backgrounds are more likely to live near polluting sites and face negative health impacts from environmental hazards, underinvestment, and pollution.⁶⁵ According to the National Association for the Advancement of Colored People (NAACP), 68% of Black people live within 30 miles of a coal-fired power plant and at least 6.7 million Black people live near oil refineries.⁶⁶
26. The EPA’s peer-reviewed report shows that minority groups are most likely to live in areas with the highest levels of climate change impacts.⁶⁷ Black and African Americans are 40-59% more likely to live in areas with the highest projected increases in extreme temperature-related deaths.⁶⁸ Hispanic and Latino communities are 43% more likely to

live in areas with the highest projected reductions in labour hours due to extreme temperatures.⁶⁹

27. The EPA reported that 72 million Americans, many of whom are low-income and people of colour, are estimated to live near major trucking routes.⁷⁰ The American Lung Association further reported that people of colour in the US are three times more likely to be breathing polluted air than white people.⁷¹
28. While the impact of climate change disproportionately affects people from marginalised communities, this is compounded by the US justice system providing limited legal avenues for those underrepresented communities seeking to litigate environmental justice cases.⁷²

D. Recommendations

We recommend that, before the next cycle of review, the government should:

- i. Reconsider and reverse the decision to withdraw from the Paris Agreement. It should resume and maintain a leadership role in international and national efforts to combat climate change.
- ii. Fulfil the net-zero targets as planned, which aim to decarbonise the country's electric sector by 2035, reduce emissions, and ensure that 50% of US car sales are electric by 2030.
- iii. Implement clear and achievable strategies to comply with the commitments of SDG No.13, to "[t]ake urgent action to combat climate change and its impacts."⁷³
- iv. Fully support and implement local initiatives that have been set in place for environmental justice outlined in the Justice40 initiative.

ACCESS TO ABORTION

A. International and Domestic Law on Access to Abortion

UN Human Rights Standards

29. Sexual and reproductive health rights (SRHRs) entail:

"The right to make free and responsible decisions and choices, free of violence, coercion and discrimination, regarding matters concerning one's body and sexual and reproductive health. The entitlements include

unhindered access to a whole range of health facilities, goods, services and information.”⁷⁴

30. Rights relating to abortion are enshrined in several treaties including those ratified by the US, namely the CAT and the ICCPR. The US is also a signatory to the ICESCR and CEDAW which are equally relevant in the context of reproductive health. Whilst neither of these treaties have been ratified, the US remains obliged, as a signatory, to “refrain from acts which would defeat the object and purpose” of these treaties.⁷⁵ Various UN human rights bodies have held that States must provide abortion access at least in cases of a risk to the pregnant person’s life or health, rape or incest, and fatal foetal abnormality (FFA).⁷⁶ Failing to ensure access to abortion can violate the right to be free from torture and other forms of cruel, inhuman, or degrading treatment or punishment (CIDT); the right to privacy; the principles of equality and non-discrimination; and States’ obligations to eliminate discrimination against women.⁷⁷

Domestic Law

31. In 2022, the US Supreme Court ruled in *Dobbs v. Jackson Women’s Health Organization* that the Constitution does not confer a right to abortion, returning the authority to regulate access to abortion to the US states.⁷⁸ The *Dobbs* ruling overturned the landmark decisions in *Roe v. Wade* (1973)⁷⁹ and *Planned Parenthood v. Casey* (1992)⁸⁰ which held that women have a constitutional right to access an abortion, owing to the right to privacy under the Fourteenth Amendment’s due process clause. Justice Samuel Alito’s majority opinion in *Dobbs* reasoned that abortion is not “deeply rooted” in the history of the US,⁸¹ suggesting that *Roe* was based on a “faulty historical analysis” that ignored the history of criminalising abortion across the US.⁸²
32. The decision in *Dobbs* has led to many states implementing restrictions and bans on accessing abortion.⁸³ In rolling back protections for abortion, the US sets itself apart from the increasingly progressive movement towards decriminalising abortion taking place across the globe, whereby over sixty nations have relaxed restrictions on abortion over the last thirty years.⁸⁴ Furthermore, overruling federal constitutional protections for access to abortion has the potential to impact other decisions relying on the jurisprudence of the Fourteenth Amendment, including LGBTQ+ rights, same-sex marriage, and access to contraception.

B. Implementation of Recommendations from Cycle Three in 2020

33. 12 of the 347 recommendations from Cycle Three concerned SRHRs. The US supported all 12 recommendations in full. Below is a consideration of the action taken on each supported recommendation. **None of these recommendations have been fully implemented.**

Ensuring Universal Access to SRHRs including Abortion

34. The US supported seven recommendations related to universal and equitable access to sexual and reproductive services. **Austria** recommended that the US reverse policies restricting comprehensive and universal access to voluntary SRHR services, especially in emergencies, and end related restrictions on foreign assistance (para. 26.302).⁸⁵ The US government responded that President Biden had issued an executive order to protect reproductive healthcare and revoked the previous administration's Mexico City policy, reaffirming a commitment to SRHRs both domestically and globally. Similarly, **Canada** (para 26.303)⁸⁶ recommended that the US take action to support equitable access to sexual and reproductive health services and review policies that limit foreign assistance in this area. The US response⁸⁷ highlighted the rescission of the *Protecting Life in Global Health Assistance Policy*⁸⁸ and stated that promoting sexual and reproductive health is a central part of its foreign policy and national security strategy.
35. **Finland** (para 26.305) called for making essential health services accessible to all women and girls, particularly those facing multiple and intersecting forms of discrimination. As of March 5, 2025, following the overturning of *Roe v. Wade* in the *Dobbs* ruling, 41 states (82%) have restricted abortion access in some way, including near-total bans and gestational age-based restrictions.⁸⁹ In contrast, nine states and Washington DC have no gestational limit on abortion.⁹⁰
36. **France** (para 26.306)⁹¹ recommended the US should ensure access to SRHRs for women and girls, while **Iceland** (para 26.307)⁹² proposed protecting these rights by guaranteeing access to information, commodities, and services. **Luxembourg** (para 26.308)⁹³ emphasised the need to guarantee essential health services for all, including reproductive health services. **Malaysia** (para 26.309)⁹⁴ further recommended the US ensure universal access to SRHR information, education and services, while **Mexico** (para 26.310)⁹⁵ recommended access to sexual and reproductive health information and services for all women.
37. While some states still provide access to such services for women and girls, in the absence of federal guarantees, 36 million women of reproductive age (meaning 29% of the total US adult population of reproductive age) live in states that have banned or are likely to ban abortion.⁹⁶ Of these women, 2.9 million have a disability, 12.5 million are economically insecure, 15.8 million are mothers with children under 18 at home, and 400,100 are veterans. Furthermore, 1.3 million transgender adults and 1.2 million non-binary adults are impacted. It also has a disproportionate effect on women of colour.⁹⁷ The impact of restrictive abortion laws is a perpetuation of systemic discrimination against groups that have historically been victims of legal, political, and societal oppression, including African Americans, Hispanic and Latinx, indigenous and immigrant communities.

38. **Denmark** (para 26.304)⁹⁸ recommended the US rescind the *Title X* restrictions to ensure access to comprehensive family planning services for all. As the only federal program dedicated to providing affordable reproductive healthcare, *Title X* plays a crucial role in serving low-income and marginalised communities. The Biden Administration issued new regulations to reverse restrictions enacted during President Trump's first term. This restored federal funding for family planning providers that offer abortion referrals and expanding the *Title X* network beyond its pre-2019 level.⁹⁹ However, considering President Trump's second term, the program's future is uncertain.¹⁰⁰
39. The second Trump Administration has already signaled its intention to restrict abortion access, with early indications that a radical interpretation of the Comstock Act could be used to justify a nationwide ban on medication abortion including mifepristone.¹⁰¹ Several protective actions taken by President Biden are expected to be reversed, including the dissolution of the interagency Task Force on Reproductive Healthcare Access and the elimination of Medicaid Waivers¹⁰² that allowed states to assist patients in traveling for out-of-state abortion care.¹⁰³
40. Simultaneously, the Trump Administration has removed information related to reproductive health services from government websites, which restricts public access to essential healthcare resources.¹⁰⁴ Moreover, a website launched by the Biden Administration following *Dobbs* (ReproductiveRights.gov) is now a broken link, with an archived version remaining accessible through the Internet Archive.¹⁰⁵ The absence of reliable, public information about how to access safe, legal abortion can entail a breach of international law, notably under the ICCPR.¹⁰⁶
41. **The Netherlands** (para 26.311)¹⁰⁷ recommended repealing the Helms Amendment, which has prohibited the use of US foreign aid funds for abortion as a method of family planning since 1973,¹⁰⁸ and the *Protecting Life in Global Health Assistance Policy*, commonly known as the 'Global Gag Rule',¹⁰⁹ which restricts foreign NGOs receiving US funding from providing or promoting abortion services, even with non-US funds. In the interim, The Netherlands added that the US should allow foreign assistance to fund abortions in cases of rape, incest, and life endangerment. Legislative efforts were introduced to strike the Helms Amendment by the Biden Administration, however despite these steps, the prospects for repeal remain challenging. The Biden Administration did not demonstrate a clear position and still used Helms language in its first budget request.¹¹⁰ **Aotearoa New Zealand** (para 26.312)¹¹¹ recommended that the US ensure its international aid policies allow access to sexual and reproductive health services. Internationally, the second Trump Administration has reinstated the *Global Gag Rule*,¹¹² cutting funding to health organisations that provide or discuss abortion services.¹¹³

42. **Australia** (para. 26.301)¹¹⁴ recommended that the US ensure that laws permitting the refusal of care based on religious and moral beliefs do not restrict women's SRHRs and that measures be put in place to monitor and prevent violations of these rights. The US supported this recommendation but did not provide a specific response or outline any steps taken toward its implementation. After *Dobbs*, religion is commonly viewed as an argument against abortion and used as an argument in favor of the right to choose.¹¹⁵
43. In sum, **despite formally supporting all 12 recommendations, the US has not fully implemented any of them.** While the Biden Administration reversed some of the previous Administration's policies, abortion rights have regressed due to the *Dobbs* ruling. Federal protections remain absent, and state-level bans disproportionately impact marginalised groups. Given the lack of federal guarantees for abortion access, we urge Member States to explicitly recommend the US government codify access to abortion through federal legislation.¹¹⁶

C. Further Points for the USA to Consider

Impact on abortion and healthcare providers

44. Twelve states have enacted laws that restrict abortion access with an impact on healthcare providers.¹¹⁷ These laws often carry civil and, in some cases, criminal penalties for providers who offer abortion services. Between 2020 and March 2024, there was a 5% decline in the number of abortion clinics across the US; a net loss of 42 clinics.¹¹⁸ In states with total abortion bans, clinics have been forced to close, leaving no safe abortion providers in those areas.¹¹⁹
45. States with more restrictive abortion laws often use Targeted Regulation of Abortion Providers (TRAP) laws, which impose strict criteria on abortion providers, including specific building standards and locations, reporting requirements, and hospital affiliations. These regulations force many providers that cannot meet these requirements to close, making safe and legal abortion increasingly difficult or even impossible to access.¹²⁰
46. In states where abortion is criminalised, healthcare providers are reluctant to provide life-saving reproductive healthcare in fear that their actions will be construed as aiding and abetting abortion. Additionally, healthcare professionals have delayed or refused to provide care for conditions unrelated to reproductive issues if there is a risk that a procedure could lead to a miscarriage, fearing that the miscarriage could be mistaken as an intentional abortion.¹²¹
47. Moreover, categorising a miscarriage as a 'spontaneous abortion' has a detrimental impact on the access to essential medical care for persons experiencing a miscarriage. It is important to differentiate between medical procedures for miscarriage and elective

abortions. Failing to make this distinction risks criminalising life-saving treatments following pregnancy loss.

48. Since the US Supreme Court's decision in *Dobbs*, the Association for American Medical Colleges has reported a continued decline in trainee medical professionals opting to complete their training in states with abortion bans.¹²² As healthcare professionals avoid working in those states, the quality of healthcare in these areas may suffer, leading to the deterioration of medical facilities, and disproportionately affecting historically disadvantaged communities.

D. Recommendations for Action by the US

We recommend that, before the next cycle, the government should:

- i. Fully decriminalise abortion and ensure that abortion legislation is informed by international human rights standards and scientific evidence.
- ii. In a procedural step towards complete legalisation of abortion within the US, the federal government should use its jurisdictional powers to establish a clear federal distinction between elective abortion and life-saving medical procedures for miscarriage. The federal government should issue binding guidance through the Department of Health and Human Services (DHHS) ensuring that medically necessary abortions are not criminalised under state bans. Federal action should ensure that healthcare providers are not prosecuted for performing life-saving abortions, which aligns with international standards on reproductive health rights.
- iii. The federal government should prevent the introduction of new barriers to safe and legal abortions. This can be achieved by repealing conscientious objection laws in relation to abortion, and burdensome regulatory requirements. This would be directly in line with the ICCPR and ICESCR Committees' advice.
- iv. The Federal government should codify federal abortion protections to ensure compliance with human rights obligations under the ICCPR, and human rights standards under ICESCR and CEDAW. This could be achieved by legally recognising abortion as essential healthcare under the Affordable Care Act or the Public Health Service Act.¹²³
- v. The federal government should seek to establish increased welfare protection for families considering the *Dobbs* ruling, including nationwide federally protected parental leave, and extending child tax credit to support low income and vulnerable families.
- vi. To prevent future erosion of rights, Congress should codify protections for other rights that rely on the same constitutional foundations as *Roe v. Wade*. This includes access to contraception,¹²⁴ same-sex marriage,¹²⁵ and LGBTQ+ protections.¹²⁶

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- ¹ UN OHCHR, 'The Core International Human Rights Instruments and their Monitoring Bodies' <www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>.
- ² See, Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force on 27 January 1980) 1155 UNTS 331; 8 ILM 679 (1969) Article 2(1)(d).
- ³ US Const Art VI, para 2 ("The laws of the United States...and all Treaties...shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, anything in the Constitution or Laws of any State to the Contrary notwithstanding.").
- ⁴ US Const Art II, section 2.
- ⁵ The White House, 'Statement by President Trump on the Paris Climate Accord' (1 June 2017) <www.whitehouse.gov/briefings-statements/statement-president-trump-paris-climate-accord/>; See also, Harold Hongju Koh, 'Presidential Power to Terminate International Agreements' (2018) 128 Yale L J 12, arguing that this is a matter for Congress.
- ⁶ See, e.g., Ann Bradford and Eric A Posner, 'Universal Exceptionalism in International Law' (2011) 52 Harv Intl L J 1, 5.
- ⁷ *Treatment of Polish Nationals in the Danzig Territory* (1932) PCIJ Ser A/B No 44, page 24.
- ⁸ This is a well settled principle of public international law, see notably *Avena and Other Mexican Nationals (Mexico v US)*, ICJ Reports 2004, 12, page 65.
- ⁹ *Exchange of Greek and Turkish Populations* (1925) PCIJ Ser B No 10, pages 20-22.
- ¹⁰ United Nations, 'Climate Action' <<https://www.un.org/en/climatechange/science/causes-effects-climate-change#:~:text=Climate%20change%20is%20the%20single,grow%20or%20find%20sufficient%20food>> accessed 3 April 2025.
- ¹¹ Ibid.
- ¹² Ibid.
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⁹² “Protect the sexual and reproductive health and rights of women and girls by ensuring their access to sexual and reproductive health information, commodities and services.” Report of the Working Group para 26.307.

⁹³ “Guarantee essential health services for all, including sexual and reproductive health services.” Report of the Working Group para 26.308.

⁹⁴ “Ensure universal access to sexual and reproductive health information, education and services for all.” Report of the Working Group para 26.309.

⁹⁵ “Ensure access by all women to sexual and reproductive health information and services.” Report of the Working Group para 26.310.

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⁹⁹ Brittini Fredriksen, Ivette Gomez & Alina Salganicoff, ‘Rebuilding the Title X Network Under the Biden Administration’ *KFF* (25 May 2023) <www.kff.org/womens-health-policy/issue-brief/rebuilding-the-title-x-network-under-the-biden-administration>. Although the Biden administration reversed these policies, the program has struggled to regain its former reach, further challenged by stagnant funding. Brittini Fredriksen, ‘The Federal Family Planning Program has Not Recovered from Trump Era Restrictions’ *KFF* (4 October 2024), <www.kff.org/quick-take/the-federal-family-planning-program-has-not-recovered-from-trump-era-restrictions>.

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