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# THAILAND'S ABORTION LAW TRANSFORMATION: CONSTITUTIONAL RIGHTS, PUBLIC HEALTH, AND THE GLOBAL JURISPRUDENCE OF ROE AND DOBBS

Pimpatsorn Na NAKORN<sup>1</sup>

1 School of Law, Sukhothai Thammathirat Open University, Thailand;  
pim.natipodhi@gmail.com

**Handling Editor:**

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Netanya Academic College, Israel

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**Abstract**

This article traces the profound transformation of Thai abortion law from a restrictive criminal framework (1957 Penal Code) to a progressive, rights-based public health model. Historically, reform efforts faced significant political and moral opposition, leading to widespread unsafe practices. A crucial turning point emerged with the 2005 Medical Council's expanded interpretation of legal abortion grounds, aligning with the UK's medicalized approach. The decisive shift occurred in 2020 when the Constitutional Court ruled that criminalizing abortion violated women's constitutional rights to equality and liberty. This catalyzed subsequent legislative amendments that legalized abortion on request up to 20 weeks and codified broad therapeutic grounds, marking a significant move towards reproductive autonomy. The essay analyzes the nuanced influence of comparative jurisprudence. While the UK's health-based model structurally informed Thailand's regulatory changes, US jurisprudence, particularly the Dobbs decision, served a symbolic cautionary role, reinforcing the necessity of robust legal protections and highlighting the fragility of rights. Thailand's unique trajectory, grounded in explicit constitutional principles of equality and public health rather than privacy, offers a distinctive model for reproductive justice in Southeast Asia. The article concludes by discussing ongoing challenges in implementation, ensuring equitable access, and safeguarding against potential regression.

**Keywords:** Thai Abortion Law Reform, Constitutional Rights, Public Health, Reproductive Justice, Dobbs Decision

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## Introduction

Thailand's legal development concerning abortion represents one of the most significant human-rights and public-health transformations in Southeast Asia over the past fifty years. Historically rooted in a criminal framework introduced in the mid-20th century, Thailand's abortion law had long maintained some of the region's strictest prohibitions (Whittaker, 2002b), despite abundant empirical evidence that criminalization neither prevented abortions nor protected women's health (de Londras et al., 2002). Instead, it created a deeply inequitable system in which access to safety was determined by socioeconomic class, geographic location, and the willingness of individual practitioners to interpret the law's narrow exceptions generously. Over time, this dynamic contributed to widespread clandestine abortion practices that resulted in preventable injuries, long-term reproductive harm, and maternal death, especially among young women, rural women, and the urban poor. The academic and public-health literature has repeatedly emphasized that restrictive abortion laws create a dual system: one that is safe and accessible for the privileged, and another that is dangerous and punitive for the marginalized (Whittaker, 2002b; Warakamin et al., 2004).

The forces that shaped Thailand's abortion reforms were complex and evolved over decades. Beginning in the 1970s, women's rights advocates, physicians, public-health scholars, and civil-society organizations called attention to the devastating consequences of unsafe abortion. Their arguments initially centered on the public-health necessity of enabling safe abortions to reduce maternal mortality and morbidity. Over time, the discourse increasingly incorporated principles of women's equality and autonomy, reflecting global trends in feminist jurisprudence and human-rights law. Notably, the reform movement in Thailand did not originate from courts, as in some jurisdictions, but rather emerged from a combination of political advocacy, medical professionalization, and gradual cultural shifts that recognized the need for compassionate and evidence-based reproductive healthcare. (Whittaker, 2002b)

Efforts to reform the Penal Code's restrictive provisions repeatedly stalled in Parliament throughout the 1980s and 1990s, largely due to political resistance driven by religious and moral conservatism. Influential figures, particularly leaders associated with the ascetic Buddhist Santi Asoke movement, mobilized campaigns against abortion reform by framing it as antithetical to Thai cultural and spiritual values (Arnott et al., 2017; Chinthakanan et al., 2014). This resistance had a chilling effect on legislators, many of whom abstained from voting or openly opposed reform despite strong empirical evidence demonstrating the public-health crisis posed by illegal abortions (Whittaker, 2003). As a result, despite the tireless advocacy of medical professionals and women's organizations, Thailand's abortion law remained virtually unchanged from 1957 to the early 2000s.

A significant shift occurred when Thai medical authorities and public-health professionals, recognizing Parliament's reluctance to modify the law, began using their administrative and ethical authority to broaden the interpretation of the Penal Code's narrow exceptions. This culminated in the Thai Medical Council's 2005 regulation clarifying that abortion was permissible not only to protect physical health, but also mental health, and in cases of severe fetal anomalies. This regulatory development, though not legislative reform, signaled an important shift: it allowed physicians to legally justify abortions on broader grounds, thereby reducing fear of prosecution and gradually improving access. It also aligned Thai practice more closely with international medical standards and comparative legal frameworks such as the United Kingdom's health-based model of abortion regulation (Sheldon, 2016).

Despite these incremental gains, access to abortion services remained inconsistent, with significant regional disparities and persistent stigma within the medical community. Providers who were willing to offer abortion services often faced institutional pressure, lack of support, or moral scrutiny (Leetrakool et al., 2025). Some hospitals refused to provide services altogether, prompting the formation of networks such as the Referral System for Safe Abortion

(RSA), composed of physicians, nurses, and activists committed to providing safe, legal abortions within the regulatory framework (Arnott et al., 2017).

A decisive turning point came in 2020, when the Thai Constitutional Court ruled that Section 301 was unconstitutional for violating the rights to equality and liberty under the Constitution. This landmark judgment catalyzed legislative reform, compelling Parliament to liberalize the law in line with constitutional protections. The resulting amendments in 2021 legalized abortion on request up to 12 weeks and expanded permissible grounds thereafter, marking an unprecedented shift from criminalization toward reproductive autonomy. Further regulatory adjustments in 2022 extended legal abortion access to 20 weeks, signaling the Thai state's acknowledgement of modern medical realities, including the timing of fetal anomaly detection and complexities surrounding delayed recognition of pregnancy. (Chaturachinda & Boonthai, 2020)

Thailand's recent legal reforms took place at a time when abortion law was moving in the opposite direction in the United States. In 2022, the U.S. Supreme Court decided *Dobbs v. Jackson Women's Health Organization*, a case that overturned *Roe v. Wade*. This long-standing ruling had protected the right to abortion nationwide for nearly fifty years. As a result, abortion regulation in the United States was returned to individual states, many of which quickly imposed strict bans. Although this decision has no legal force in Thailand, it has influenced global debates on abortion. In the Thai context, *Dobbs* has been used in two contrasting ways: conservative groups cite it to argue that abortion rights are unstable and reversible, while advocates for reproductive rights point to it as a warning of what can happen if legal protections are not firmly secured. Importantly, Thailand's reforms rest on constitutional principles and public-health considerations, rather than on a broad judicial right to privacy as in *Roe*. For this reason, the U.S. decision is unlikely to undo Thailand's legal progress. Nevertheless, the *Dobbs* case has heightened awareness of how fragile reproductive rights can be and has reinforced the need for ongoing legal and policy safeguards.

The purpose of this essay is to examine the evolution of Thai abortion law within its historical, social, and constitutional contexts and to analyze the extent to which jurisprudential developments from the United Kingdom and the United States have influenced its trajectory. It argues that while the UK's health-based model has had a discernible structural influence on Thailand's regulatory reforms, the U.S. experience, particularly *Roe* and *Dobbs*, has played a more symbolic and discursive role. Finally, the essay explores the future directions of Thai abortion law, considering both the opportunities and challenges inherent in translating legal rights into equitable access to reproductive healthcare. Through this examination, the essay situates Thailand's abortion reforms within broader global trends, demonstrating how domestic advocacy, international norms, and comparative jurisprudence jointly inform the future of reproductive rights in Thailand.

### **Historical Development of Thai Abortion Law**

The history of abortion law in Thailand must be understood against the backdrop of the Penal Code of 1957, which cemented an overwhelmingly punitive framework that governed reproductive health for more than six decades. The law criminalized abortion almost entirely, offering only two narrow exceptions: to save or preserve the woman's health, and in cases of rape or sexual offenses. These provisions reflected the moral and social sensibilities of their time, emphasizing the protection of fetal life at the expense of women's agency. However, as decades of public-health evidence later demonstrated, the criminalization did not reduce abortion rates; instead, it fostered a clandestine system in which safety depended almost entirely on socioeconomic privilege.

### **The 1957 Penal Code: A Restrictive and Punitive Framework**

Sections 301 through 305 of the Penal Code formed the legal architecture of Thailand's abortion regime. Section 301 criminalized women who sought abortion, subjecting them to up to three years of imprisonment and fines. Section 302 criminalized individuals performing abortions with a woman's consent, while Section 303 imposed even harsher penalties if performed without consent. Only Section 305 recognized narrow lawful grounds, permitting abortions by a licensed physician if necessary to preserve the woman's health or if the pregnancy resulted from a sexual offense (Whittaker, 2002b). For decades, however, "health" was interpreted narrowly by authorities, generally limited to imminent physical danger or threat to life. The statutory language did not explicitly include mental health, fetal anomaly, or broader considerations of the woman's well-being (Hemrangsee, 2021).

This narrow interpretation was only inconsistently expanded by medical actors. Although in the early 2000s, the Royal Thai Institute urged the use of the World Health Organization's holistic definition of health (which includes physical, mental, and social well-being), this guidance had no binding effect on courts or prosecutors (Warakamin et al., 2004). Providers were thus left to navigate ambiguous and often contradictory signals, with fear of prosecution inhibiting even medically justified interventions. Such an environment made abortion inaccessible and unsafe for many women, particularly those with limited financial resources.

### **The Public-Health Cost of Criminalization**

By the 1970s and 1980s, it became increasingly clear to clinicians and researchers that criminalization was producing severe public-health harms. Women continued to seek abortions at high rates, driven by unintended pregnancies, inadequate contraception, sexual violence, and socioeconomic constraints. However, in the absence of legal, safe services, many were forced to resort to dangerous alternatives.

Whittaker (2002a) and Warakamin et al. (2004) documented the widespread use of hazardous self-induction methods, including poisonous herbs, insertion of sharp objects into the cervix, ingestion of toxic substances, and the use of abdominal massage administered by untrained practitioners. These methods frequently caused life-threatening complications, including sepsis, hemorrhage, and uterine perforation. In many cases, women delayed seeking medical care due to fear of legal repercussions, stigma, or shame, exacerbating the severity of injuries. Maternal mortality and morbidity statistics offer sobering insight. Unsafe abortion accounted for an estimated 10-15 percent of maternal deaths in Thailand as recently as the early 2000s, a proportion comparable to some of the world's most restrictive jurisdictions (Chaturachinda & Boonthai, 2017). The National Health Security Office reported spending approximately 150 million baht per year treating complications from unsafe abortions, highlighting not only the human toll but also the economic inefficiencies of criminalization.

These harms fell disproportionately on marginalized women. Wealthy women could procure safer clandestine services from licensed physicians operating discreetly in private settings. Meanwhile, poor and rural women resorted to unsafe providers or self-management. One northeastern study in the 1980s found that 60 percent of illegal abortions were induced by abdominal massage, a practice with notoriously high risk of infection and trauma (Whittaker, 2002a). In urban centers, clinics that operated between legal and illegal frameworks charged fees beyond the reach of most women, reinforcing class-based inequalities. In this way, the criminal regime created a two-tiered system in which the wealthy accessed safe abortions despite their illegality, and the poor bore the consequences of punitive law.

### **Social, Cultural, and Moral Opposition to Reform**

Attempts to reform Thai abortion law date back to the 1970s and 1980s, but these efforts were consistently thwarted by strong moralistic resistance. Conservative Buddhist leaders and some politicians depicted abortion as fundamentally incompatible with Thai values. (Chinthakanan et al., 2014) Although Buddhism is not monolithically anti-abortion, indeed, interpretations

vary, and compassion is a major doctrinal value, public discourse in Thailand often equates abortion with the taking of life, a violation of the first precept.

The most influential opponent of reform during this period was Major-General Chamlong Srimuang, leader of the Santi Asoke movement. Chamlong's ascetic Buddhist ideology emphasized strict morality and framed abortion as a form of Western moral decay infecting Thai society (Whittaker, 2003). Campaigns led by Chamlong and his allies generated intense political pressure, amplifying fears that legalizing abortion would encourage promiscuity, undermine Buddhism, and erode Thai identity. These campaigns influenced parliamentary debates and public perceptions, making legislators wary of supporting reform even when public-health data justified change.

The 1981 House of Representatives vote approving a moderate liberalization, followed by the Senate's overwhelming rejection, exemplifies this dynamic. Despite the bill's pragmatic focus on health and women's welfare, conservative opposition succeeded in rallying resistance through moral rhetoric framed as protecting national and religious purity. This political environment persisted throughout the 1990s, with similar reform bills repeatedly stalled or defeated.

### **Early 2000s Shifts: Public Health, Rights Discourse, and NGO Advocacy**

By the late 1990s and early 2000s, political liberalization and constitutional reform began to shift the terrain. The 1997 Constitution expanded protections for rights and strengthened engagement with civil society (Pathmanand, 2001). Although abortion remained a sensitive issue, women's rights groups became more vocal about reframing access to safe abortion as both a public-health necessity and a matter of gender equality. International human-rights developments, such as the 1994 Cairo Conference and subsequent CEDAW recommendations, provided external frameworks (Singh et al., 2018) that Thai advocates used to critique restrictive laws.

One visible turning point occurred in 2001 when a high-profile case involving a near-fatal illegal abortion generated national concern. In response, the Minister of Public Health called for reviewing abortion laws and improving access to safe procedures in state hospitals. Although she emphasized that this was not an attempt to "legalize" abortion broadly, her initiative signaled recognition by national authorities of the dire consequences of unsafe abortion. This case also catalyzed legal and medical discussions about the need for clearer guidelines governing therapeutic abortion, laying the foundation for the consequential 2005 Medical Council regulations. (Chaturachinda & Boonthai, 2020)

Women's health NGOs, including the Women's Health and Reproductive Rights Foundation of Thailand and the Planned Parenthood Association of Thailand, intensified campaigns highlighting data-driven arguments on maternal mortality and morbidity. These groups used personal narratives, epidemiological studies, and global comparisons to articulate a more nuanced discourse on reproductive rights. The RSA network, formed in the 2010s, institutionalized a form of grassroots health justice by connecting women seeking abortions with willing providers trained in safe procedures (Arnott et al., 2017).

By the early 2000s, the limitations of the punitive regime were undeniable. The cumulative pressure from public-health evidence, NGO advocacy, changing societal attitudes, and administrative reforms within the medical profession created conditions supportive of policy change. While legislative reform remained elusive, a foundation had been laid for the eventual constitutional and statutory transformations that would define Thailand's next decade of reproductive-rights progress.

## **Medical Regulation, Constitutional Reform, and the 2021-2022 Legal Framework**

The most consequential shifts in Thailand's abortion law occurred not through Parliament in the early decades of reform efforts but through medical regulation and constitutional adjudication. Beginning with the Thai Medical Council's 2005 Regulation on Criteria for Performing Therapeutic Termination of Pregnancy, and culminating in the Constitutional Court's 2020 decision invalidating Section 301, these developments paved the way for the landmark 2021-2022 legislative reforms that significantly liberalized abortion in Thailand. The interaction of medical authority, constitutional rights, and legislative action constitutes a uniquely Thai pathway toward reproductive justice, distinct from the United Kingdom's primarily legislative model and the United States' predominantly judicial model.

### **Medical Regulation as a Pathway to Liberalization**

Frustrated by decades of political stalemate, Thailand's medical professionals used their regulatory authority to reinterpret the statutory exceptions under Section 305. The 2005 Medical Council regulation formally recognized that abortion could be legally performed when pregnancy endangered a woman's mental health or when severe fetal anomalies existed (Arnott et al., 2017). This regulatory intervention expanded the effective scope of lawful abortion within the existing statutory framework, providing physicians with clearer ethical and legal guidance and reducing the deterrent effect of potential prosecution.

The regulation enumerated three key categories of permissible abortions. First, abortions were lawful if necessary to prevent significant harm to the woman's physical health. Second, abortions were permissible for mental health reasons, provided that at least two physicians certified that continuation of pregnancy posed a substantial risk to the woman's psychological well-being. Third, abortions were allowed when a fetal anomaly was likely to cause serious distress or psychological harm to the pregnant woman (Chaturachinda, 2014). These categories correspond with international norms, particularly the United Kingdom's broad health ground under the Abortion Act 1967, which encompasses both physical and mental health and which, in practice, enables early abortion on request through medical certification (Sheldon, 2016).

By establishing formal criteria for therapeutic abortion, the 2005 regulation empowered physicians to act in accordance with medical ethics and evidence-based practice. However, despite the Medical Council's clear guidance, access remained uneven. Many hospitals—especially in rural and conservative regions—continued to refuse to offer abortion services, and some physicians interpreted the regulation narrowly or declined to perform abortions due to personal moral objections. In southern provinces with substantial Muslim populations and northern regions with strong Buddhist conservative influences, social stigma exerted significant pressure on providers. As Arnott et al. (2017) observed, institutional cultures in many public hospitals remained hostile to abortion, and many providers lacked training or confidence to perform safe procedures even when legally permissible.

The creation of the Referral System for Safe Abortion (RSA) played a pivotal role in bridging these gaps. RSA formed a nationwide network of trained providers, counselors, and supportive institutions that women could access when their local hospitals refused services. The RSA's function demonstrated how civil society and professional networks can compensate for institutional reluctance and ensure that the spirit of medical regulation—safe, legal abortion—was realized in practice (Chainok et al., 2022). Nonetheless, because the legal foundation still relied on medical interpretation rather than statutory reform, the risk remained that variable hospital policies, personal beliefs, or lack of local expertise would limit access. (Foster et al., 2016)

The incremental progress achieved by medical regulation underscored both the possibility and limitations of relying on professional bodies to drive reform. It set the stage for broader legal reconsideration, culminating in the Constitutional Court's landmark decision fifteen years later.

### **The Constitutional Court's 2020 Decision: A Rights-Based Turning Point**

The constitutional challenge to Section 301 marked the first successful effort to confront the criminalization of abortion as a violation of women's fundamental rights. In February 2020, the Constitutional Court held that penalizing women for terminating pregnancies violated constitutional guarantees of equality and liberty under Sections 27 and 28 of the 2017 Constitution. The Court reasoned that criminalization imposed disproportionate burdens exclusively on women—a form of gender discrimination—and infringed on bodily autonomy and personal liberty. This approach was notably different from the U.S. Supreme Court's earlier reliance on privacy rights in *Roe v. Wade*. Instead, the Thai Court grounded its reasoning in explicit constitutional provisions, akin to the approaches taken by constitutional courts in South Korea, which have also upheld abortion rights on equality or dignity grounds in recent years (Kim et al., 2019).

The Court's ruling did not declare an unrestricted right to abortion. Rather, it mandated that the legislature revise the law to ensure compatibility with constitutional principles. The Court suspended the nullification of Section 301 for 360 days, granting Parliament time to enact a compliant legal framework. The Court also implicitly endorsed the legitimacy of state regulation under Section 305, acknowledging that abortion could still be subject to lawful limitations provided those limitations were reasonable, proportionate, and consistent with women's rights.

The decision significantly shifted the legal and political landscape. It introduced constitutional rights as a formal foundation for reproductive autonomy, forced legislative action on an issue long considered politically untouchable, and provided reform advocates with powerful legal momentum. Women's rights organizations hailed the ruling as historic, noting that it moved abortion from the realm of criminal morality into the domain of constitutional justice.

### **The 2021 Legislative Reforms: Liberalization of First-Trimester Abortion**

Complying with the Court's mandate, Parliament amended the Penal Code in January 2021. The amendments decriminalized abortion on request up to 12 weeks of gestation, effectively transforming the first trimester into a period of reproductive autonomy. This was the first time in Thailand's legislative history that women were recognized as having the right to terminate a pregnancy for any reason.

Beyond 12 weeks, the legislature codified and expanded the grounds for lawful abortion under the revised Section 305. Abortions were permitted when necessary to protect a woman's physical or mental health, in cases of rape or sexual coercion, and when fetal anomalies posed serious concerns regarding viability or quality of life. These legislative changes incorporated and strengthened the Medical Council's earlier regulatory interpretations, giving statutory authority to mental-health and fetal-anomaly grounds.

The reforms also significantly reduced criminal penalties for unlawful abortions, particularly for women who obtained abortions outside the permissible circumstances. The maximum penalty was reduced to six months' imprisonment or a fine, reflecting a meaningful shift away from punitive approaches and aligning more closely with public-health objectives.

These statutory changes represented more than mere compliance with the Constitutional Court's ruling. They embodied a legislative recognition that abortion is an essential component of women's health and autonomy and that criminal sanction is an inappropriate and ineffective tool for managing reproductive decision-making.

### **The 2022 Regulatory Extension to 20 Weeks: Alignment with Medical Reality**

In 2022, the Ministry of Public Health and related regulatory bodies further amended guidelines to allow abortion up to 20 weeks, provided that the woman received counseling and provided informed consent. This extension reflected medical realities surrounding the diagnosis of fetal anomalies, which often occur around the 18- to 20-week anatomical scan. It acknowledged that

socioeconomic circumstances or delayed detection of pregnancy may impede earlier decision-making.

While the 20-week limit is moderate compared to the viability standard formerly used in the United States (approximately 24 weeks) and the more flexible grounds in some European countries, it aligns Thailand with global norms recognizing the complexity of second-trimester abortion decisions. The requirement for counseling was framed not as a barrier but as a supportive measure to ensure informed decision-making. However, vigilance is needed to prevent it from becoming coercive or stigmatizing.

The 2022 extension further entrenches a rights-based and public-health perspective in Thai abortion law, signaling that reproductive autonomy does not end at 12 weeks and must be supported by medical and regulatory structures capable of responding to real-world circumstances.

### **Implementation Challenges: From Legal Reform to Practical Access**

Despite significant legal progress, implementation remains uneven. Many hospitals, particularly in rural areas, still hesitate to provide abortion services due to institutional stigma, lack of trained providers, or moral opposition. Some require overly burdensome documentation or impose informal barriers not authorized by law. Healthcare providers sometimes conflate counseling requirements with opportunities to discourage abortion, rather than providing objective information and support. These issues echo patterns described in Arnott et al. (2017), where lawful abortions were denied or delayed due to providers' moral judgments.

Full integration of abortion services into the public-health system requires sustained commitment. Training in medical abortion, manual vacuum aspiration, and patient-centered counseling must be expanded. Institutional practices need to be audited to ensure compliance with legal obligations, and referral pathways must be strengthened to prevent denial of care. The RSA network remains critical, but reliance on a civil-society patchwork is not a sustainable substitute for universal access guaranteed through the public health system.

The period from 2005 through 2022 marks the most transformative era in the history of Thai abortion law. Through a combination of professional regulation, constitutional intervention, and legislative reform, Thailand shifted from punitive criminal regulation to a rights-based and medically grounded approach. This legal transformation reflects not only domestic advocacy but also the influence of international norms and comparative legal models. With these foundations laid, the next question is how global jurisprudential developments-particularly from the United Kingdom and United States-shape, affirm, or challenge this new trajectory.

## **Comparative Jurisprudence, the Impact of Dobbs, Future Directions, and Conclusion**

### **Comparative Jurisprudence: The UK Model and Its Influence on Thailand**

Although Thailand's legal evolution in abortion law is largely rooted in domestic public-health imperatives and constitutional reasoning, comparative jurisprudence has played a notable role in shaping its regulatory structure. Among foreign influences, the model provided by the United Kingdom stands out as the closest analogue to Thailand's approach, particularly in the period before Thailand adopted first-trimester abortion on request in 2021.

The UK's regulatory framework is anchored in the Abortion Act 1967, which treats abortion as permissible when authorized by two physicians acting in good faith and when specific statutory grounds are met. These grounds broadly include risks to the woman's physical or mental health, risks to existing children in the family, and fetal anomaly, with abortions freely available up to 24 weeks under the expansive "health" ground. Notably, UK law does not conceptualize abortion as an unrestricted personal right; instead, it frames abortion as a medical procedure regulated through professional oversight. This "medicalized" model has been

effective in ensuring widespread access while maintaining formal legal oversight under a retained criminal-law framework (Sheldon, 2016).

This structure closely parallels Thailand's pre-2021 legal evolution under Section 305 and the Medical Council's 2005 regulation. When Thai regulators introduced a mental-health ground requiring approval from two physicians, they adopted a mechanism nearly identical to the UK requirement. The concept of using medical professionals as gatekeepers, rather than granting women unfettered legal entitlement, provided political cover for reform in a culturally conservative climate. By locating abortion within medical ethics rather than moral discourse, Thailand's regulatory bodies were able to broaden access without provoking the same level of political resistance that had thwarted legislative attempts in earlier decades (Whittaker, 2003). The influence of the UK model can also be discerned in Thailand's incremental adoption of gestational limits. The shift to permitting abortion on request up to 12 weeks resembles many European frameworks, although Thailand's subsequent extension to 20 weeks moves the country even closer to international standards. The removal of elaborate justificatory requirements for early abortion thus aligns with a global public-health consensus that early pregnancy terminations should be accessible, safe, and provided without undue procedural obstacles.

Where Thailand diverges from the UK, however, is equally instructive. While the UK retains a legal fiction that abortions require justification under statutory grounds, in practice, nearly all early abortions proceed under a broad mental-health justification. Thailand opted to eliminate the fiction by permitting abortions on request in the first trimester, making its *de jure* framework more straightforward and rights-oriented than the UK's. This bold legislative move demonstrates Thailand's willingness not only to borrow from but also to improve upon comparative models.

Additionally, Thai constitutional jurisprudence-unlike UK law-explicitly recognizes equality and liberty interests in the reproductive context. This grounding in constitutional rights strengthens Thailand's legal framework by insulating it from the instability that sometimes accompanies purely statutory regimes. At the same time, Thailand has retained the UK's insight that safe abortion is best delivered through integrated health systems rather than antagonistic criminal-law enforcement.

Overall, the UK's influence on Thailand is structural and functional rather than doctrinal. It provided a model demonstrating how abortion can be provided widely within a regulated medical system. Thailand's reforms both drew upon and surpassed this model as domestic advocacy pushed toward a more rights-affirming approach.

### **U.S. Jurisprudence: Roe, Casey, and the Symbolic Trajectory Toward Dobbs**

The United States' history of abortion jurisprudence has had an outsized impact on reproductive-rights discourse worldwide, though its direct legal influence on Thailand has been limited. During the nearly fifty years between *Roe v. Wade* (1973) and *Dobbs v. Jackson Women's Health Organization* (2022), *Roe* served as the most visible global example of constitutionally protected abortion. *Roe* situated abortion within the constitutional right to privacy, later reframed by *Planned Parenthood v. Casey* (1992) as part of liberty under the Due Process Clause. These decisions articulated a vision of reproductive autonomy that resonated with feminist movements across many countries.

In Thailand, however, *Roe*'s influence was more ideological than doctrinal. Thai legal scholars and advocates looked to *Roe* as a demonstration that constitutional rights could extend to reproductive choices, but Thailand's political and legal context differed significantly. Until recently, Thailand's constitutions lacked explicit rights provisions that could easily support *Roe*-style privacy arguments. As Whittaker (2003) notes, earlier attempts to frame abortion as a matter of women's rights encountered significant resistance, and the reform trajectory was driven more by public-health arguments than judicially protected rights.

Nevertheless, as rights discourse strengthened in the early 2000s, transnational feminist ideas—including those shaped by Roe and Casey—began to influence the language of Thai advocacy. The Constitutional Court's 2020 decision reflected this shift, although the Court relied on equality and liberty guarantees rather than on implied privacy rights. The court's approach mirrored the reasoning in the constitutional court's decision in South Korea, which likewise grounded reproductive rights in textual protections of dignity, equality, and personal autonomy (Kim et al., 2019). This pattern reflects a broader global divergence from U.S. jurisprudence—a rejection of Roe's privacy-based rationale in favor of more robust equality-based reasoning.

### **The Impact of Dobbs on Thai Law and Legal Discourse**

When the U.S. Supreme Court issued Dobbs in June 2022, overturning Roe and Casey and eliminating federal constitutional protection for abortion, the decision generated global shockwaves. In many countries, including Thailand, observers questioned what Dobbs signified for the future of reproductive rights internationally. The implications for Thailand fall into several categories: rhetorical influence on conservative movements, judicial and doctrinal relevance, policy and advocacy responses, and the shaping of public perception.

Dobbs may embolden conservative actors in Thailand, who may cite the decision as evidence that abortion is not a universal or inherent constitutional right. They may argue that if the United States, once considered the bellwether of liberal abortion rights, can reverse course, Thailand should be cautious about relying on constitutional reasoning to protect reproductive autonomy. Such arguments may find purchase among religious conservatives or political factions that remain uncomfortable with the 2021-2022 reforms. However, this rhetorical influence is limited by key contextual differences.

For one, the U.S. constitutional structure is unique. Dobbs relied heavily on a historical-tradition test assessing whether abortion rights were deeply rooted in American history. This framework has little resonance in Thailand, whose constitutional jurisprudence does not apply such tests and whose modern constitutional order is far more rights-expansive. Moreover, the Thai Constitutional Court has already spoken clearly: criminalizing women for abortion violates equality and liberty. The logical foundation for this conclusion is not easily undone without a constitutional amendment or a radical judicial reinterpretation.

Dobbs also serves as a cautionary tale for Thai advocates. It demonstrates the fragility of judicially recognized rights when not coupled with legislative entrenchment. The failure in the United States to enact national abortion rights legislation following Roe left those rights vulnerable to shifting judicial ideology. In contrast, Thailand now possesses both constitutional reasoning and explicit statutory provisions permitting abortion. The Thai legislature's swift action following the 2020 ruling strengthens the enduring character of Thailand's reforms. Moving forward, advocates may use Dobbs as a reminder that legal rights require continual vigilance and political reinforcement.

From a public-health perspective, the aftermath of Dobbs reinforces the data learned from decades of restrictive abortion laws worldwide: bans do not eliminate abortion, but they do increase unsafe procedures and worsen health outcomes. Early evidence from U.S. states that enacted bans after Dobbs shows delays in lifesaving care, confusion among medical providers, and increased risks for pregnant individuals facing complex medical conditions. Thailand's long history of unsafe abortion prior to liberalization gives it firsthand insight into these harms. Dobbs thus indirectly validates Thailand's public-health approach to abortion reform and underscores why regression would be dangerous.

Finally, Dobbs has shaped Thai public perception by placing Thailand's reforms within a global context. Many Thais viewed the U.S. decision as a regressive anomaly in contrast with global trends toward liberalization in South Korea, India, Mexico, Argentina, and Colombia (Mayall et al., 2025). The U.S. reversal may ironically strengthen support for Thailand's path

by offering a stark example of the societal chaos that can follow the criminalization of reproductive healthcare.

### **Future Directions in Thai Abortion Law**

With a new legal framework firmly in place, Thailand now faces the challenge of implementation, institutionalization, and continued progress. Several areas warrant attention as Thailand works to ensure that legal rights translate into accessible, equitable reproductive healthcare.

First, implementation must be strengthened in public hospitals nationwide. Despite clear legal provisions, access remains inconsistent, particularly in rural and conservative areas where providers may resist offering abortion services. Institutional policies must ensure that personal objections do not translate into denial of care. Referral systems should be standardized, with mandatory pathways that direct women to willing providers.

Second, stigma reduction must remain a priority. Chainok's (2021) qualitative research on adolescents accessing legal abortions after the 2021 reforms found persistent shame, misinformation, and negative attitudes from some healthcare workers. Comprehensive public education campaigns are needed to normalize abortion as a legitimate healthcare service. Incorporating reproductive-health education into school curricula and training hospital staff in non-judgmental care will be crucial.

Third, the legal framework may require refinement. Full decriminalization of women, even in cases outside statutory conditions, would put Thailand in line with WHO best practices and with policies adopted in several jurisdictions, such as Canada. Removing punitive provisions would reinforce the principle that criminal law has no place in private reproductive decisions. Similarly, simplifying the procedural requirements after 12 weeks, such as counseling, may be necessary to prevent them from becoming de facto barriers. Consideration may also be given to expanding on-request abortion beyond 12 weeks, as some jurisdictions do, recognizing the realities of delayed pregnancy recognition and complex life circumstances.

Fourth, data monitoring and evaluation are essential. Policymakers should track abortion-related outcomes, including complications, service availability, and demographic patterns, to inform future reforms. If evidence demonstrates continued disparities in access or persistent unsafe abortions, targeted interventions can be developed.

Finally, attention must be given to marginalized populations, including migrants, refugees, rural women, and adolescents. Ensuring they can access confidential, affordable, and safe abortion services is critical to achieving equity. Integrating abortion services into Thailand's Universal Coverage Scheme will help ensure that cost does not become a barrier to care.

### **Conclusion**

Thailand stands at a transformative moment in the evolution of reproductive rights. From a system historically rooted in criminalization and stigma, the country has transitioned toward a rights-based and public-health-oriented framework that prioritizes women's autonomy, health, and dignity. This transformation was made possible through the combined efforts of medical professionals, civil society advocates, constitutional adjudication, and legislative action.

Comparative jurisprudence played a meaningful but nuanced role in this evolution. The United Kingdom's regulatory model offered a pragmatic structure for integrating abortion into medical practice and influenced Thailand's early regulatory reforms. The United States experience under *Roe v. Wade* provided an ideological foundation for conceptualizing reproductive autonomy as a constitutional concern, even though Thai jurisprudence ultimately relied on different doctrinal bases. The *Dobbs* decision, while deeply concerning, is unlikely to reverse Thailand's progress; rather, it underscores the importance of vigilance, institutionalization, and sustained public-health commitment.

While this article focuses primarily on Thailand's legal response to abortion and the global implications of *Dobbs*, similar tensions between criminalization, public health, and women's autonomy continue to shape abortion law reform debates across many Asian jurisdictions, underscoring the broader regional relevance of Thailand's experience.

Thailand's path demonstrates how traditional values, medical ethics, and constitutional principles can be reconciled to advance women's well-being. As the country continues to develop its legal and healthcare systems, sustained attention must be given to ensuring that all women—regardless of age, income, or geographic location—can exercise their legal right to safe, timely, and compassionate abortion care. In this respect, the evolution of Thai abortion law reflects not only domestic progress but also a meaningful contribution to global discussions on reproductive rights in culturally diverse societies.

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**Data Availability Statement:** The raw data supporting the conclusions of this article will be made available by the authors, without undue reservation.

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