

## Prioritizing Equity video series: Reproductive health care as a human right

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Reproductive health care is a human right. In this Aug. 8, 2022, edition of the Prioritizing Equity series, learn how this connects to health equity and explore the impacts of the overturn of Roe v. Wade with a panel of experts.

### Panel

- **Jamila Perritt, MD, MPH, FACOG**—President & CEO of Physicians for Reproductive Health
- **Lawrence Gostin**—Professor of Global Health Law and Director of the WHO Center on Global Health Law
- **Krishna Upadhya, MD, MPH, FAAP**—Vice President, quality care and health equity, Planned Parenthood Federation of America

### Moderator

- **Aletha Maybank, MD, MPH**—Chief Health Equity Officer, Senior Vice President, Center for Health Equity, American Medical Association

### Transcript

**Dr. Maybank:** Hello, everyone. Welcome to Prioritizing Equity. I am Chief Health Equity Officer Aletha Maybank at the American Medical Association. Thank you for joining us for a new episode in the Prioritizing Equity series. Today's conversation is one in many ways that I really never thought we would need to have. As the AMA has shared over the past month since the United States Supreme Court's ruling, we are deeply concerned about the impact of the decision on patients' access to the full spectrum of reproductive health care options, on the patient-physician relationship and on our ethical

obligation to help patients choose the optimal course of treatment and the practice of medicine overall.

And so, with this ruling, our collective abilities to really advance equity, to create equitable health systems and really to ensure optimal health is actually very challenged. Building off the legacy of reproductive health care advocacy and reproductive justice of folks like SisterSong, who really led that movement years ago, there are people across the country who are really committed and committing their careers to this work.

I'm grateful to be in discussion today with three powerful and impactful leaders. I first welcome Dr. Jamila Perritt, who for more than 20 years has worked in the reproductive health rights and justice space, and is currently president and CEO of Physicians for Reproductive Health, a physician-led organization that mobilizes the medical community, educating and organizing providers, and then using medicine and science to advance access to reproductive health care for all. Thank you, Dr. Perritt.

Also, we're joined by Lawrence Gostin, a university professor at Georgetown University and a leading public health expert and a law expert. More specifically, Professor Gostin directs the World Health Organization Center on National and Global Health Law and is the global health editor of the *Journal of the American Medical Association*. Thank you for joining us.

And lastly, we have Dr. Krishna Upadhyia. Can you pronounce that for me so I say it correctly? I'm sorry. I don't want to say it incorrectly.

**Dr. Upadhyia:** It's Dr. Krishna Upadhyia.

**Dr. Maybank:** Upadhyia. Thank you. So Dr. Krishna Upadhyia is also here with us today. She is vice president of quality care and health equity at the Planned Parenthood Federation of America. As an adolescent medicine specialist herself, Dr. Upadhyia has dedicated her career to promoting the health of young people, and in particular, ensuring access to high-quality sexual and reproductive health care through clinical work research, teaching and advocacy.

So, thank you all for joining me today. We truly appreciate you for making the time and being part of this Prioritizing Equity series and this very important conversation. So first, I usually open, this is how I've opened this all the time since the start of COVID and I think even more so than the start of COVID because it felt really heavy then and there's just so much that's happening in our society. How are you doing today and can you tell me where you're joining us from? And we'll start Dr. Perritt.

**Dr. Perritt:** Sure. Sure. My last name is pronounced Perritt.

**Dr. Maybank:** Perritt. Thank you.

**Dr. Perritt:** Yes, no problem. So, I'm joining from Washington, D.C., where I provide clinical care, and also as you mentioned, lead Physicians for Reproductive Health. I think the question how we're doing today, how I'm doing today, it depends on the minute. Things are moving quickly in the reproductive health rights and justice space, and we're trying to navigate the challenges that people on the ground are facing, literally trying to get access to care as well as what the providers in our network are facing trying to care for their communities as they have done for their entire career. So it's a challenging time.

**Dr. Maybank:** And where are you located? What part of the country did you say?

**Dr. Perritt:** I'm in DC, the DC area.

**Dr. Maybank:** Fantastic. Thank you. Dr. Upadhyia?

**Dr. Upadhyia:** Yeah. Good morning. I'm also calling here from Washington, D.C., with Dr. Perritt. As you mentioned, it's been a very challenging time for many people. I have to say for myself today, personally, I'm doing okay but certainly am really angry, upset and just really feel for the folks on the ground—patients, communities, providers—who are really just navigating really difficult situations in this time.

**Dr. Maybank:** Yeah, absolutely. Thank you for that. And Mr. Gostin.

**Gostin:** Yeah, well as you say, it's really troubling times for me. It's the Supreme Court's decision on abortion and the states' rush to make the United States an outlier on human rights for reproductive and sexual health. But it's also firearms, COVID-19, monkeypox, all of the above. I just had an article the other day in *JAMA*® on the monkeypox global health emergency on top of COVID. So there's certainly a lot for our country to be grappling with at the moment, and the world, of course. And not the least of which of course is fairness, justice and equity.

**Dr. Maybank:** Absolutely. I completely agree. Dr. Perritt, I have a question for you. So, the end of *Roe* places the government in this patient-physician relationship, and it really is risking serious adverse health effects, criminalization of care and everything that falls under that. Can you talk a bit about the ways that policing and reproductive care actually interact? And then what are providers within your network actually experiencing with these restrictions? I think sometimes, if you're not in the space, folks really still don't have a sense of it.

**Dr. Perritt:** I think that's right. You know, I would also say that it's not just the overturning of *Roe* and *Casey* over the last few weeks where we've seen government intrusion into the reproductive health and rights space. This has been going on since *Roe* was decided in 1973. We can look across the country and see the impact of governmental and legislative interference in decision-making about our reproductive health and autonomy.

Even long before that, if we take a look at the history of reproductive health and rights in this country, we know that the United States has long worked to interfere with the agency and autonomy of those with the power to reproduce. We certainly are seeing that interference ratchet up since the SCOTUS ruling and states really on this race to the bottom to figure out how bad they can be, how aggressively they can restrict and eliminate access to abortion care.

And it is directly tied to the criminalization of communities. I think that's a hard thing for lots of health care providers to wrap our minds around—how can health care, how is health care criminalized for some communities. Because it is discretionary and it is discriminatory. Everyone is not criminalized in the same way for the same reasons for the same actions. And often those folks who are criminalized for making their reproductive health decisions or for their pregnancy outcomes are done so because they sought medical care.

This is why it's so critical that we are having this conversation as health care providers because we are oftentimes the linchpin in this situation and are feeding people into the criminal legal system. So whether we're talking about people being punished for outcomes of their pregnancy, punished for behaviors that they've engaged in during their pregnancies that would not be criminalized should they not be pregnant or for people who are working to manage their own abortion care sometimes called self-managed abortion. We see that criminalization is not as much about the behavior of the individual, but the individual itself and the identities that they hold.

We know that Black and Latinx and other folks of color are more likely to be criminalized by our criminal legal system. We know the same thing is true for young people, LGBTQ folks, undocumented communities. So the risks are high for criminalization overall. We are seeing this play out in the reproductive health care space right now and it's going to get worse.

**Dr. Maybank:** It's going to get worse. Yes. You know, Dr. Upadhyia, we've engaged with you over the last weeks or so just around this and figuring out kind of our best role in advocacy from our AMA point of view. And you, I'm sure as well from your point of view, and I would imagine you're evolving as the time goes on in such a short amount of time and have access to many people and communities, and almost this is kind of building off a little bit of what Dr. Perritt said. Because we understand it's not just the context of access to abortion care but it's like this whole context of just health care overall and its impact on inequities that happen.

And so, can you just speak to a little bit again so that the audience because I want to kind of continue setting for the audience, these contexts that they don't typically hear as physicians but how does abortion access really relate to inequities more broadly? And then how can, again, public health professionals think about, in what you're learning right now, what have been the best ways that they've been able to help kind of navigate the space or help their patients navigate the space? Or for themselves as providers, how have they been navigating this space?

**Dr. Upadhyia:** Yeah. Thank you for that question. And I think, yeah, my answer totally follows on what Dr. Perritt laid out, and certainly you know this from the work that you've been doing with the AMA, Dr. Maybank. But we know that health inequities that exist are created and reinforced by systems of oppression. And in particular, when we're talking about reproductive health inequities, obviously racism and misogyny are really at the core. And certainly during the pandemic, we've seen that.

I think there's certainly a lot more acknowledgement and coverage of health inequities but we know that these inequities have really been evident for centuries and they manifest all across our health care system in our outcomes. As an example, of course, we know that there's disproportionately high rates of maternal and infant mortality for Black women and children. We know that there are disproportionate rates, like in my work, I've certainly seen disproportionate rates of sexually transmitted infections, HIV infections, among young people, LGBTQ people, minoritized people. And then obviously we know that rates of chronic diseases are higher among Black, Latino and Indigenous communities.

And so, these are things that we have known and we have seen across time. And so really abortion bans are just another tool of oppression that have been harming many communities as Dr. Perritt laid out, even before the overturning of *Roe*. And as you alluded to Dr. Maybank, we know that as a result of that, Black women, Latino and Indigenous peoples and other communities who have faced not only restrictions on their access to abortion but other aspects of health care have really been leading the fight for reproductive freedom for decades.

And so, for me, as we think about what we, as health care professionals and public health professionals, can do to support our patients and our communities in this moment, we have to always keep in mind what people who have been experiencing the greatest barriers for many years have been advocating for, and are advocating for and really making that central to how we approach it.

And then I think at the core, it's my belief as a physician truly that we have a real responsibility to understand that these are systemic oppressions that are impacting the patients that we're serving. At the core of it, we are caring for people and people come to us in their context and we have to recognize that in order to provide the best care. I think it's incumbent on us to really actively challenge the underlying systems that are really preventing people from achieving their optimal health.

**Dr. Maybank:** Absolutely. Thank you for that. Doctor, sorry, professor. Are you a doctor, as well, because sometimes PhDs are there too?

**Gostin:** That's okay. Just call me Larry, it's fine.

**Dr. Maybank:** Okay. Okay. So, you recently wrote an article in *JAMA*® and really, I think there's more opportunity in this in how law and medicine come together. I think more so, not just at these moments but even like in a preventive way, I guess, or in a proactive way, I should say, of how we better

understand and work with one another across disciplines. I think it's going to be really important even more so. It's always important but I think more so moving forward because it's what I think becomes really evident during this time of COVID, during this time of monkeypox, all of it is one, the political determinants of health, right?

And two, the connection to laws and structures and the determinants as it relates to that of health. And so oftentimes, the way that medical education has been structured, framed, the narrative around it has been we are not to be involved in politics. And we really don't make those connections to the laws that are in place that create the health, whether good or bad, for our patients.

And so, I think, moving forward, it's just really important that we're in conversations together and work together across disciplines. So I'm very happy that you joined us today in this conversation. And so, you wrote an article in *JAMA*® that was titled “The End of *Roe v Wade* and New Legal Frontiers on the Constitutional Right to Abortion.” So, can you speak to the different ways that overturning *Roe v Wade* potentially impacts constitutional rights in regard to medical and familial decisions?

**Gostin:** Yeah, there's so much to say. And I couldn't agree with you more about the intersection between law, medicine and public health, and that we have to work together. I actually chaired a Lancet commission called the Legal Determinants of Health that really made the point that you are making, I thought quite well. That the legal structures and the system of justice in our countries and our world make a huge difference.

You know, the Supreme Court in the *Dobbs* decision, when it overturned *Roe v Wade* and *Casey v Planned Parenthood* was in my mind a slap in the face for people across America, and it also undermined the public's trust in the Supreme Court because *Roe* and *Casey* have been settled precedent now for half a century. And the Supreme Court has never before in its history, since it was formed in the 1700s, has taken away a right that had been conferred. It had very often provided a right, overturned precedent to provide a right, like *Brown v the Board of Education*, which was a wonderful decision. But never before taken away a right.

So, basically, the court said that the right to abortion was not part of the history and traditions of America, and therefore it couldn't be a constitutional right. Of course, I totally disagree with that. I believe that the right to autonomy and to privacy, and the right to reproductive and other forms of sexual health are extraordinarily important. There should be constitutional protections.

Beyond that, the court hinted that what might be at stake in the future are other constitutional rights, including things like same-sex marriage, or even contraception or certain forms of contraception like IUDs, because all of these rights were based upon the same underpinning as *Roe v Wade*, which is the right to privacy.

And I just want to say one other thing. I've always thought that abortion rights were really about autonomy and privacy in the physician-patient relationship and the sanctity of that relationship. But I've come to think that it's a lot more than that. This is not just a question of individual autonomy or privacy. It's a question now of justice, of equity and fairness, because any woman in America with means will most likely be able to get an abortion no matter where she lives. But that's not true for poor people, disproportionately people of color. It's not true for many poor, rural residents. And so, we're really seeing two Americas: one that can have access to the health services they need and one that can't.

**Dr. Maybank:** Thank you for that. Dr. Perritt, I want to give space with Dr. Perritt. Upadhy, too, to also join in that question and conversation.

**Dr. Perritt:** Thank you so much for that, Professor Gostin, because it's a really important point to make when we talk about what the impact is going to be, who the impact is going to be on. And we've seen this play out already for decades. I agree that it's not about privacy or when we think about access to abortion, it's not even about abortion. Right? This is about power. It's about control. And honestly, it's rooted in stratified reproduction, and the desire to increase births in some communities and decrease births in others.

And that can be counterintuitive to folks, right? How can abortion bans disproportionately impacting Black women and birthing people be part of this larger plan for stratified reproduction? But it's important to understand that we are a byproduct of these ban, right? And the power and control that is attempting to be exercised over every person with the power to reproduce definitely disproportionately impacts some communities as opposed to others. And the further we can zoom out of that conversation, I think that the better we'll be.

The other thing that I would add is that we've spent a lot of time, especially in the last month, talking about the overturn of *Roe*. And as we've heard from previous panelists already, *Roe* has never been enough, right? We focus so much of our energy on protecting *Roe*, and it did provide federal protections, but there are folks that have been living in this country where *Roe* was essentially non-existent for a very long time. And because all of our focus has been focused on protecting *Roe*, it has been a distraction and we have ignored the state-level restrictions in the thousands that have been passed in the last 10 years that are essentially banning abortion already.

*Roe* is the floor. *Roe* was the floor. And what we know now is that floor is gone. And so the question becomes, what will we build in its place? And I believe very strongly that people who provide abortions and people who have abortions should be leading this conversation about designing new systems that will benefit all of us.

**Dr. Maybank:** Thank you, Dr. Perritt. Go ahead, Dr. Upadhy.

**Dr. Upadhyia:** Yeah, I was just going to add one thing to what Dr. Perritt said and now it has slipped my mind.

**Dr. Maybank:** That's okay. It happens to me quite often lately, so don't worry. If it comes to you—

**Dr. Upadhyia:** I recall. I think, especially important to this conversation too, assuming that a lot of physicians are the ones watching this podcast. I think what Dr. Perritt just highlighted is something that is really important, and I think we, as a medical community, need to really take some responsibility and really understand and see what abortion providers have been dealing with over many, many years, as she said, that we would not accept in any other aspect of health care.

Well before *Roe v Wade*, providers have been mandated by the state to provide incorrect medical information to patients. They have been mandated to provide substandard care by law. That is something that has been going on and folks have been dealing with it. And I think as a medical community, we really need to take responsibility and really stand behind those folks who have been doing this work and who continue to do it now under even greater amounts of threat. But I think that's something that a lot of folks in medicine don't really understand what abortion providers have been dealing with well before June 24.

**Dr. Maybank:** That brings up the point of, and the importance of, narratives and storytelling and explicit action around that. Oftentimes I think, in medicine, and probably in other disciplines, undervalue the power of being able to use and elevate stories of folks to help change and inspire or inspire to create change. Right?

I used to teach community organizing and public health. Meredith Minkler wrote the book. She's a well-known professor in this space and she always says, institutions may be moved by numbers but people move by stories. And so that's the same. And I think about the political environment and again, connecting those dots and you'll hear me talk much more about kind of political determinants, organizing, all these things that we weren't taught in med school that are really important to how we are able to advance medicine and really aspire to equity.

And so, Professor Gostin, I wanted to speak to you. In your space and in the legal space, and you're writing in *JAMA* so clearly you understand the value of doing that. But what are things that you think are really important for the medical community and the audience to know? How would you like to work more so with the medical community as an audience as we start to kind of hopefully build a sense of solidarity, a greater sense of solidarity, in doing this work?

**Gostin:** Yeah. I mean, I think traditionally, medicine and doctors and other health care professionals have thought of law as the enemy, and lawyers in particular, with ambulance chasers, medical malpractice and all of that. I'm not interested in those areas. I think America is far too litigious. I think all of the medical malpractice and tort litigation has very little value.



But law is an essential, literally, an essential ingredient for making a population healthy. Dr. Perritt and others have talked about other examples of that, as you have, in terms of the commercial determinants of health. You know, big business, environmental, determinants of health, social and economic, and racial determinants of health. But law is extraordinarily important. Law can provide rights and justice and access to health services, or it can block them.

It can incentivize health care professionals and patients to work together and to make a healthy population or they can block it. They can criminalize it. And the law has been too often on the side of sanctions and criminalization, everything from now we're talking about abortion and some of the bounty laws like in Texas that provide \$10,000 to anybody who can sue an abortion provider.

But we've seen it also in HIV/AIDS, in drug dependency, opioids, in a whole range of other areas as well. So we need to work together and we need to work together to ensure a more favorable legal environment where people can have all of the determinants of health that make us healthy and safe, a population with both physical health and mental health.

**Dr. Maybank:** Thank you. Dr. Perritt, I saw you unmute your mic, so I want to give you space to add on to what Professor Gostin said. And that's something else that you have said as well.

**Dr. Perritt:** Yeah.

**Dr. Maybank:** But thank you, Professor Gostin, for those words.

**Dr. Perritt:** It's really interesting, right? Because I think depending on where you're sitting, the idea that the law can be a tool for liberation is debatable. And the same thing happens from medicine. I came into the practice of medicine, I became a doctor because I believe in it in the same way that Dr. Gostin said, as a tool of liberation. And I also understand and acknowledge that there are many folks who totally disagree with me because of the harm that has been enacted by medical providers, perpetrated by medical providers upon many communities, certainly in the United States and around the world.

And so one of the challenges that I see both with law and medicine, and particularly the coming together of law and medicine, how do we grapple with those harms, the history and the ongoing harms that are occurring at the hands of both of these service providers, legal providers and medical providers, in our communities and work to use it in the way that we came to it, believing that it can be liberatory for our communities?

And I would offer that the first step is really in something that Professor Gostin mentioned in his opening question, this word human rights. Because the big difference in how we think about health care delivery in this country, and the reason we spend so much money on health care and have still abysmal outcomes, particularly when you pull out racial and ethnic inequities, is because we don't

believe that health care is a human right. And so we don't approach it that way.

One of the things that is so amazing and refreshing and powerful for me about the reproductive justice movement is that it is grounded in human rights theory and Black feminist thought. So this understanding that human rights are indivisible. That means in order to achieve one, you have to be able to achieve another. Human rights are universal. Everyone everywhere is entitled to them. If you believe that access to abortion care and reproductive health care more broadly is a human right and it is inalienable, it is indivisible, it is universal. Then the person living in rural Mississippi should have the same access as the person living in Midtown New York, regardless of documentation, regardless of income, regardless of race and ethnicity.

So, unless we can really start to grapple with that and wrap our mind around health care as a human right and reproductive health care under that umbrella, we have such a long way to go.

**Gostin:** That was beautifully stated.

**Dr. Perritt:** Thank you. Thank you. You can tell I believe it. I'm slightly passionate about it.

**Dr. Maybank:** So, the conversation has moved very quickly and we're at the very kind of tail end of the show. Dr. Upadhy, I want to give you some space to answer or respond to any of that. But as you respond, and I'll go to each one of you, it's one of those questions that sometimes you're like, why are we getting asked that question? But it's about hope, right?

The reality is that we cannot do this work of justice unless we have some sense of hope and belief of something better in all the contexts that Dr. Perritt just mentioned. And so I would love for you all to just kind of elevate just what's that kind of one thing that's kind of giving you hope still at this moment as we move forward. But Dr. Upadhy, I turn to you first.

**Dr. Upadhy:** Yeah. I mean, I think of, briefly, two things I think that are giving me hope. I think one is the work of abortion providers across the country, both within Planned Parenthood and outside of it. I think the dedication and creativity and persistence that they continue to demonstrate in support of their patients and in the face of serious threats is really remarkable and inspiring.

I couldn't say it better, obviously, than Dr. Perritt about this is a human right. Abortion is health care at the base and health care is a human right. And I think we as a medical community need to really stand firmly in that and behind that, and really be a part of the solution here.

And then just really briefly. I think the other thing that gives me hope is just being aware of history and the history of struggle. In my family, certainly, I'm well aware of the history of colonialism and people's struggle against that. And obviously, as an American, I endeavor to be aware of the history of enslaved people and the continuous struggle against oppression. People continue to fight back

against these systems and that is something that continues to give me hope as well.

**Dr. Maybank:** Thank you. Professor Gostin?

**Gostin:** Well, Martin Luther King said two things ... Well, so many things I love but two that I often think about. One of them is that everybody has the right to human rights, equality and justice but nothing is more special among the many things that we think of with equality and justice than health, public health and access to health care. I thought that was a very prescient thing that he said.

The other thing I think of is that he says that the arc of history always bends toward justice. It's very hard to see that now with a six-to-three super majority in the Supreme Court and so many other things. But I will say this, that on abortion access, if you look around the world, the United States is actually the outlier. Most countries have expanded access to reproductive health services. Even countries that are very religious, like Ireland, has placed that in their constitution.

So, I hope that over time we will learn from our mistakes and we will strive to do better as a nation. Right now, it's very, very hard to see with so many things going on and it can be depressing. But the important thing for all of us is that we never give up. We always keep fighting and beyond anything, we fight for fairness and justice. I don't think there's anything more important in our society than the idea that everyone has an equal shot.

**Dr. Maybank:** Thank you. Dr. Perritt?

**Dr. Perritt:** Sure. I love this question because it's not one that we often have an opportunity to do in medical spaces, right? I was raised and spent a good deal of my formative years in Black feminist traditions, and because of our current circumstances, wherever you are in the arc of history, there is always a need to dream for a future that is different. That is bigger. That is broader. That is more encompassing. That will hold us all. And that opportunity we don't give to medical students, to trainees. We don't do it in our offices. We don't vision for a future of health care delivery in the same way that we do in many organizing spaces. So when we have the opportunity to do it, I'm grateful for it.

The thing that gives me the most hope I think is it's going to sound a little counterintuitive but it's because I mentioned *Roe* is the floor and the floor is gone. When the bottom falls out, what do you have left? So we're now dealing with generations of people. And my mother told me years ago, "Jamila, don't get in a fight with somebody with nothing to lose." Right? We're dealing with generations of people now with nothing to lose.

Before we heard this ruling a month ago, there were only some people who did not have access to this care. Professor Gostin mentioned this. Those with means, those with resources, those with connections have always, and will always, get abortion care. Now everybody is at risk. And so, this is

an opportunity to build community in a different way to make sure that we are all in this fight together and to understand what it means that there is no individual liberation without collective liberation.

Those things are deeply tied and that is the only way forward. We have to understand the connection to one another and center those who are most marginalized from care, who are at the margins. As we're thinking about what the future looks like, that vision must center those folks.

**Dr. Maybank:** Well, thank you all. Thank you, Dr. Perritt, for that and the closing remarks. I appreciate you all taking time out of your very busy schedule at this moment, at all times but especially at this moment. Thank you all for tuning in and being with us throughout this series that has grown tremendously. So thank you for your time and energy until the next time.

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