Research and Advocacy Guide

Leveraging Freedom of Religion, Conscience, and Belief to Protect Abortion Care Under International Law

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Introduction

Restrictions on abortion and laws that criminalize the provision of abortion-related services, information, education, and support can violate a wide range of human rights, including the rights to life, health, privacy, nondiscrimination, freedom from torture and other cruel, inhuman and degrading treatment.[1] Abortion restrictions can also infringe on individuals' right to freedom of religion, conscience, and belief (FRCB), yet such claims have been under developed in human rights circles. To the extent that FRCB claims have gained traction within national courts and human rights bodies, the analysis has predominantly focused on conscience-based refusals of abortion care that often lead to denials of reproductive healthcare. Less attention has been paid to the actions of seeking, providing and/or supporting abortion care when those actions are grounded in one's religion, conscience, or belief.

This guide introduces the human rights concerns around barriers to abortion care through the lens of FRCB. The Global Justice Center created this resource to support advocates in conceptualizing and framing FRCB claims in the context of abortion.[2] It seeks to increase recognition that one's actions to provide, access, or support access to reproductive healthcare, including abortion care, can be grounded in one's sincerely held religious, ethical, or philosophical convictions, and articulates how human rights standards can protect individuals' actions in this regard when grounded in such beliefs. By outlining applicable international and regional human rights instruments, comparative jurisprudence, and policy analysis, this guide equips readers with a robust framework for understanding and advancing FRCB-based claims within broader sexual and reproductive rights debates. The information and analysis contained in this guide does not constitute legal advice and is for informational purposes only.

How to Use This Guide

Raise arguments in **litigation**, such as to protect a reproductive healthcare provider from prosecution; protect a person who terminated their pregnancy from prosecution; or protect a third party who helped another access abortion services from prosecution under a restrictive abortion law.

Introduce abortion and FRCB in **legislative debates** to stave off restrictive laws and/or policies around abortion or to promote protective laws and policies that recognize the FRCB components of reproductive healthcare and decision making.

Raise awareness around FRCB in the context of pregnancy decision-making and provision and support of abortion care. Advocates can raise these issues in community teach-in sessions to bust the myth that FRCB solely applies to traditional religious beliefs.

There are four key takeaways from this guide:

1. The right to FRCB does not solely protect the holding and/or acting in accordance with traditional religious beliefs, but also protects broader claims of conscience and systems of belief.
2. Seeking, providing, or supporting abortion care may constitute protected manifestation of religion, conscience or beliefs.
3. State restrictions on the manifestations of individuals' religion, conscience and belief must comply with human rights standards that require the restriction is: prescribed by law; pursues a legitimate governmental aim; is necessary and proportionate to that aim;[3] and not imposed for discriminatory purposes or be applied in a discriminatory manner.[4]
4. States have positive obligations to create a legal, policy and practice environment where individuals can exercise their rights to FRCB in the context of abortion.

Developed for legal practitioners, advocates, researchers, and policymakers, this guide is intended as a background resource for those engaging with international and comparative human rights mechanisms and/or seeking to integrate human rights analysis into their domestic litigation and advocacy for sexual and reproductive rights.

How is "conscientious objection" to providing abortion services different from military service?

While the term "conscientious objection" has been used to refer to both refusals to be conscripted into military service and refusals to provide abortion care, the two actions (or in-actions) are highly distinguishable. For those who object to military combat service (e.g., state-endorsed violence), the government bears the burden of verifying the sincerity of the objector's beliefs, and the objector is generally obligated to undertake alternative non-combative military service. By contrast, those who object to the provision of abortion services are rarely required to prove the sincerity of their beliefs and the burden falls on healthcare institutions to identify and provide alternative abortion service providers, all too often leaving pregnant patients with little or no access to care. As such, there are little to no administrative or other barriers to refusing abortion care and there are rarely legal or procedural safeguards in place to ensure refusals of care do not impact the rights and health of patients seeking care. Additionally, while the decision to refuse combative military service does not physically harm any one individual, refusing to provide abortion services can lead to significant physical or psychological harm and rights violations against pregnant people, as well as people who can become pregnant.

Background

Historically, the right to FRCB has been used to prevent individuals from being compelled to act against their religious or other beliefs, a practice called "conscientious objection." For example, individuals have refused military service[5] or declined medical treatment[6] based on their beliefs. Around the world, healthcare providers have likewise refused to provide abortion services or information on the grounds of conscience or religious belief.[7] FRCB, however, protects not only the right to *refrain* from certain actions, but also the right to *act* in accordance with one's beliefs.[8]

This guide thus focuses on "conscientious provision" of "conscientious support" of abortion care: the action of providing and/or supporting access to abortion care as an expression of one's religion, conscience, or belief. It further explores how abortion bans and other legal restrictions may violate FRCB by infringing on physicians', midwives', doulas', or nurses' freedom to provide abortion care or others' freedom to support individuals to obtain abortions, as aligned with their religion, conscience, and/or beliefs. This guide also touches on how

FRCB may protect an individual's decision to seek abortion care when that decision is motivated by their religion, conscience, or belief.

Legal Framework

International human rights law protects individuals' right to hold beliefs (*forum internum*) and act on or "manifest" their beliefs (*forum externum*). While the right to hold certain beliefs is inviolable and cannot be restricted, the right to manifest one's beliefs can be subject to state limitations that meet strict legal criteria. (See 'Permissible Limitations on Manifestations of FRCB' below)

This section provides an overview of the various human rights instruments that explicitly protect FRCB. It also outlines the scope of beliefs protected by this right and provides examples of how they may manifest in the context of abortion care. It concludes by providing an overview of the criteria that states must meet to lawfully restrict individuals' manifestations of their beliefs.

Applicable International and Regional Human Rights Instruments

Instrument	Relevant Text
Universal Declaration of Human Rights[9]	Everyone has the right to freedom of thought, conscience and religion; this right includes . . . freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.
International Covenant on Civil and Political Rights[10]	1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. 2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice. 3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
Convention on the Rights of the Child[11]	1. States Parties shall respect the right of the child to freedom of thought, conscience and religion. … 3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Instrument	Relevant Text
Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief[12]	1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. 2. No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice. 3. Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.
Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities[13]	Persons belonging to national or ethnic, religious and linguistic minorities . . . have the right to enjoy their own culture, to profess and practise their own religion . . . in private and in public, freely and without interference or any form of discrimination. ... States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.
European Convention on Human Rights[14]	1. Everyone has the right to freedom of thought, conscience and religion; this right includes . . . freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance. 2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.
American Convention on Human Rights[15]	1. Everyone has the right to freedom of conscience and of religion. This right includes freedom to maintain . . . one's religion or beliefs, and freedom to profess or disseminate one's religion or beliefs, either individually or together with others, in public or in private. 2. No one shall be subject to restrictions that might impair his freedom to maintain . . . his religion or beliefs. 3. Freedom to manifest one's religion and beliefs may be subject only to the limitations prescribed by law that are necessary to protect public safety, order, health, or morals, or the rights or freedoms of others.

Instrument	Relevant Text
African Charter on Human and Peoples' Rights[16]	Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.
Arab Charter on Human Rights[17]	1. Everyone has the right to freedom of thought, conscience and religion and no restrictions may be imposed on the exercise of such freedoms except as provided for by law. 2. The freedom to manifest one's religion or beliefs or to perform religious observances, either alone or in community with others, shall be subject only to such limitations as are prescribed by law and are necessary in a tolerant society that respects human rights and freedoms for the protection of public safety, public order, public health or morals or the fundamental rights and freedoms of others.
Charter of Fundamental Rights of the European Union[18]	1. Everyone has the right to freedom of thought, conscience and religion. This right includes . . . freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance. 2. The right to conscientious objection is recognised, in accordance with the national laws governing the exercise of this right.

Scope of Beliefs Protected under FRCB

The right to FRCB protects both religious and non-religious beliefs, including personal, political, philosophical, and moral convictions.[19] These views must be sincerely held and "substantiated" (grounded in a coherent framework) to merit FRCB protections. Courts have interpreted the substantiation requirement to mean that beliefs must be supported by facts or consistent behavior.[20] Accordingly, beliefs that lead individuals to seek, support, or provide abortion care in certain circumstances — rooted in religious teachings, professional duties of care, or feminist ethics — could fall within the scope of protected beliefs.

Multiple **religious traditions** assert that reproductive decision-making, including access to abortion, is not only morally permissible but, in some circumstances, *morally significant*. In Judaism, longstanding principles prioritize the life, health, and well-being of the pregnant person, with rabbinic authorities across multiple movements

What further resources are there?

Researchers can also consult the Office of the High Commissioner for Human Rights, European Court of Human Rights, Inter-American Commission on Human Rights, and African Commission on Human and Peoples' Rights databases and the University of Toronto, School of Law, International Reproductive and Sexual Health Law Database on Abortion Legal Jurisprudence to identify relevant case law and authoritative guidance interpreting these instruments.

affirming that abortion is important and/or necessary when pregnancy endangers physical or psychological health of the pregnant person.[21] Contemporary Jewish scholarship and advocacy organizations, such as the National Council of Jewish Women, further underscore that reproductive freedom is deeply rooted in Jewish teachings.[22]

Other faith traditions similarly support abortion access based on religious and conscience commitments to justice, compassion, and human dignity. The Unitarian Universalist Association recognizes abortion as a protected moral choice grounded in the deeply-held Principles of Unitarian Universalism,[23] emphasizing the inherent worth and dignity of every person and individual conscience.[24] Various Protestant denominations have adopted policies affirming the moral legitimacy of abortion in cases where pregnancy threatens health, exacerbates inequality, or undermines human flourishing.[25] A plurality of Islamic thought and jurisprudence also recognizes legitimate bases for abortion prior to a certain period of time or to protect maternal life and dignity.[26] Many of these faith traditions explicitly reject coercive state control over reproductive decisions, instead emphasizing pastoral care, respect for individual conscience, and harm-reduction principles aligned with both their religious beliefs and international human rights norms.[27]

Does the right to FRCB primarily protect those who hold Christian beliefs?

No. While many cases have been brought claiming violations of Christians' FRCB in the context of abortion, this human right is not limited to one belief system. All belief systems that meet the criteria of "sincerely held and substantiated" may merit protection. For example, at the European Court of Human Rights acts of conversion were found to be a protected manifestation of Jehovah's Witnesses' beliefs and denial of provision of vegetarian meals in prison was found to be an interference with a Buddhist's manifestation of their religion.[28]

Tip for Advocates: Foregrounding these diverse theological and ethical perspectives serves several strategic purposes: it counters the dominant narrative that opposition to abortion is religiously monolithic; it affirms that many providers, supporters, and pregnant individuals understand abortion as an expression of their sincerely held religious or moral convictions; it leverages human rights and constitutional protections for FRCB; and it helps destigmatize abortion by reframing it as a values-driven, ethically grounded act across multiple belief systems.

Range of Manifestations of Beliefs Protected under FRCB

In addition to protecting the right to hold a belief, FRCB protects the right to exercise or "manifest" their beliefs through both action and inaction. International human rights bodies recognize that worship, teachings, and practices—interpreted broadly—may qualify as manifestations.[29] A protected manifestation of a belief requires a "close and direct nexus" between the belief and the action or inaction.[30]

Based on the Global Justice Center's analysis of existing case law, we believe abortion care and support are consistent with manifestation rights when intimately and specifically linked to a protected religious or ethical belief. Protected acts could include the following when compelled by their belief or conscience:

- **Seeking or choosing to have an abortion**
- **Providing abortion care**
- **Counseling or accompanying a pregnant person considering abortion care**
- **Advocating to expand abortion access**
- **Speech and information-sharing around abortion**

Comparative jurisprudence affirms that courts increasingly understand conscience and beliefs as values that support abortion access, not just refusals of abortion care. For example, the following cases demonstrate that reproductive decision-making can be tied to deeply held convictions such that state interference with abortion can violate individuals' FRCB.

Can other non-theistic beliefs or ethical codes of conduct qualify as a protected belief system under FRCB?

Possibly. Medical professionals are bound by **ethical codes**, such as the Declaration of Geneva[31] and the American Medical Association's Code of Medical Ethics,[32] which emphasize patient autonomy, dignity, and the duty to provide competent care.[33] Denying abortion care—especially in cases involving miscarriage or severe risk—can directly violate these ethical commitments.[34] In fact, in a review of over 3,000 interviews and surveys of medical professionals, half of the responding providers cited professional commitments as a key motivation for providing abortions.[35]

The International Federation of Gynecology and Obstetrics (FIGO) has issued guidance on "conscientious objection" as a barrier to abortion that confirms that "the primary conscientious duty of health care providers at all times is to treat, provide benefit and prevent harm to the patients whose care they are responsible for. Any conscientious objection to treating a patient is secondary to this primary duty.... FIGO acknowledges that the terminology of conscientious objection implies that those who do provide abortion services do so without conscience, when often the reverse is true."[36]

While not every professional obligation or code of conduct rises to the level of a "protected belief" under the right to FRCB, professional ethical commitments can become deeply internalized moral convictions and therefore form part of an individual's conscience or belief system.[37]

Feminism could also be considered a protected belief system similar to other non-theistic belief systems that have been deemed protected under FRCB.[38] It can be argued that certain strands of feminism are coherent moral and philosophical frameworks that may satisfy the criteria for a non-theistic belief system.

Although international human rights bodies and experts have not yet recognized feminism as a protected belief, they have relied on gender equality as an analytical framework analogous to a belief system.[39] When provision of or support for abortion care reflects genuine feminist beliefs, as is often the case,[40] laws that limit access to reproductive healthcare and punish those who provide sexual and reproductive healthcare and support could be argued to impede the exercise of FRCB. While it is not yet resolved in the courts, litigants can continue to further this argument under right to FRCB.

Jurisprudence

Colombia

In Sentencia C-055/22, the Constitutional Court of Colombia explicitly linked reproductive decision-making to dignity and moral agency.[41] In decriminalizing abortion up to 24 weeks, the Court emphasized that forced pregnancy could violate freedom of conscience, which is protected under the state's constitution and the American Convention on Human Rights:

> *"[The decision to become a mother] is, therefore, an intimate decision closely linked to the value system*

of the person who can gestate and represents one of the primary expressions of human nature, and both those who choose to become mothers and those who choose not to do so exercise their freedom and put into practice their individual system of beliefs and values."[42]

The Court recognized that the criminalization of abortion categorically imposes a choice on pregnant people that can contravene their deepest and most intimate convictions. By criminalizing abortion "[w]ithout alternatives for the exercise of the freedom of conscience,"[43] the law infringed on this constitutional right. Thus, the Court affirmed that the decision to seek or obtain abortion care can constitute a protected manifestation of belief.

Key Takeaway: Seeking an abortion can constitute a protected manifestation of one's conscience or belief. As such, criminalizing abortion and thus coercing pregnancy can violate the right to FRCB.

Canada

In *R. v. Morgentaler*, the Supreme Court of Canada struck down a law criminalizing abortion as a violation of the Canadian Charter of Rights and Freedoms. Although the case focused primarily on "security of the person," the majority reasoned that the state's deprivation of that right also offended freedom of conscience and religion:

"The right to "liberty" . . . guarantees to every individual a degree of personal autonomy over important decisions intimately affecting his or her private life. Liberty in a free and democratic society does not require the state to approve such decisions but it does require the state to respect them. A woman's decision to terminate her pregnancy falls within this class of protected decisions. It is one that will have profound psychological, economic and social consequences for her. It is a decision that deeply reflects the way the woman thinks about herself and her relationship to others and to society at large. It is not just a medical decision; it is a profound social and ethical one as well . . . . The decision whether or not to terminate a pregnancy is essentially a moral decision and in a free and democratic society the conscience of the individual must be paramount to that of the state . . . . 'Freedom of conscience and religion' should be broadly construed to extend to conscientiously-held beliefs, whether grounded in religion or in a secular morality . . . The state here is endorsing one conscientiously-held view at the expense of another. It is denying freedom of conscience to some, treating them as means to an end, depriving them of their 'essential humanity'."[44]

A concurring judge elaborated on this right, emphasizing:

"Accordingly, for the state to take sides on the issue of abortion, as it does in the impugned legislation by making it a criminal offence for the pregnant woman to exercise one of her options, is not only to endorse but also to enforce, on pain of a further loss of liberty through actual imprisonment, one conscientiously-held view at the expense of another. It is to deny freedom of conscience to some, to treat them as means to an end, to deprive them, as Professor MacCormick puts it, of their "essential humanity". Can this comport with fundamental justice? Was Blackmun J. not correct when he said in Thornburgh, supra, at p. 2185: A woman's right to make that choice freely is fundamental. Any other result . . . would protect inadequately a central part of the sphere of liberty that our law guarantees equally to all. Legislation which violates freedom of conscience in this manner cannot, in my view, be in accordance with the principles of fundamental justice."

Key Takeaway: The decision to continue or end a pregnancy can implicate individuals' deeply held conscience and beliefs. When a state criminalizes abortion, thus taking sides on the issue, it endorses a particular viewpoint on an individual, often at the expense of their own conscientiously held views. Freedom of conscience and religion should be broadly construed to extend to conscientiously held beliefs, whether grounded in religion or in a secular morality.

United States

Emerging cases in the United States assert that abortion bans violate individuals' FRCB by preventing individuals from acting in accordance with their sincerely held beliefs.[45]

In **Indiana**, a Superior Court granted a permanent injunction halting enforcement of the state's abortion ban against plaintiffs for whom abortion is religiously motivated.[46] In response to claims that the law violated their rights under the state's Religious Freedom Restoration Act (RFRA), the Court of Appeals found that "[p]laintiffs have shown that the performance of a physical act—an abortion—is their religious exercise."[47] Subsequently, the Marion County Superior Court held that:

> *"Having already found that the Abortion Law and RFRA are in conflict, and that the State has not met its burden of showing a compelling state interest in prohibiting abortions for religious exercise, the court now finds that the Plaintiff's remedies at law are inadequate and the outright ban of abortions for religious exercise causes irreparable harm."*[48]

The Indiana Court subsequently issued a permanent injunction on the enforcement of the state's abortion can and the case has since been appealed to Supreme Court of Indiana. The Court's ultimate decision may be a major development in FRCB abortion jurisprudence.

Key Takeaway: Seeking an abortion can be a religious exercise, and is therefore protected under FRCB.

In **Utah**, the Supreme Court upheld a preliminary injunction blocking the state's near-total abortion ban.[49] Plaintiffs argued that the ban violates the state constitution, including the provision on freedom of conscience, by compelling pregnant Utahns "to act against their deeply held beliefs about family, health, and moral responsibility."[50]

Key Takeaway: Banning abortion may force individuals to act against their deeply held beliefs and thus violate the right to freedom of conscience.

Together, these cases establish a robust foundation for asserting that FRCB protects individuals who support, seek, or provide abortion care based on their deeply held convictions.

Permissible Limitations on Manifestations of Religion, Conscience or Beliefs

States' duty to respect human rights, including the right to FRCB, requires both refraining from unjustly infringing on the right (negative obligation) and adopting appropriate legislative, judicial, administrative, educational, and other measures to secure the effective enjoyment of the right (positive obligation).[51]

Regarding States' negative obligations, they may, in some cases, limit the right to manifest one's religion or belief even when the manifestation is protected under international standards.

Such restrictions must:

1. **Be prescribed by law**

   Being "**prescribed by law**" requires more than the existence of a rule in domestic law. The measure must be accessible to the public and provide sufficient clarity such that individuals know what activities are illegal and can regulate their conduct accordingly.[52]

2. **Pursue a legitimate governmental aim**

   Only **legitimate aims** can justify state interference with FRCB. Article 18(3) of the ICCPR (and similarly worded provisions in other instruments) strictly limit such aims to those that are necessary to protect

public safety, order, health, morals, or the rights and freedoms of others.[53] Although the list of legitimate aims is exhaustive and must be narrowly interpreted,[54] international and regional human rights bodies sometimes defer to states' framing of these aims.[55] For example, the European Court of Human Rights has held that national security does not constitute a legitimate aim, as Article 9 of the ECHR intentionally omitted limitations on this ground.[56] However, the Court accepted a state's claim that its ban on full-face veils served the legitimate aims of protecting public safety and the rights and freedoms of others.[57]

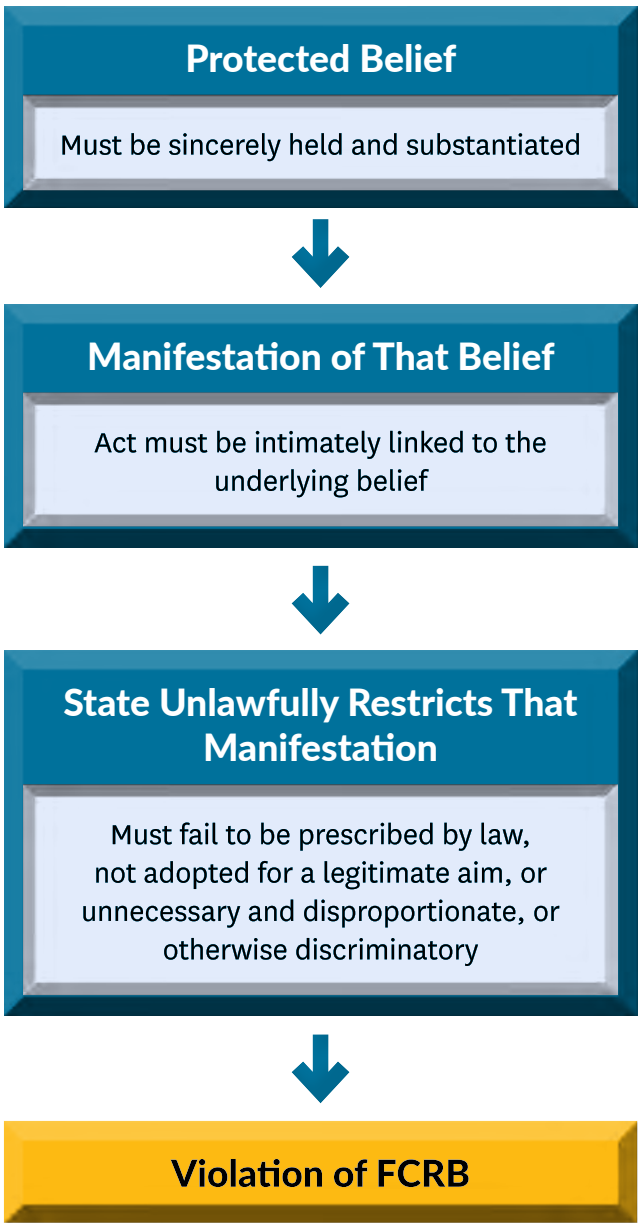
3. **Be necessary and proportionate to that aim.[58] Further, limitations may not be imposed for discriminatory purposes or be applied in a discriminatory manner.[59]**

   Once a restriction on FRCB is found to be prescribed by law and in pursuit of a legitimate aim, it must also be **necessary** to achieve that aim and **proportionate** in relation to it. While necessity requires that restrictions are directly related to and essential to achieve the pressing social need or justification, proportionality requires that the extent and impact are appropriate and not excessive in relation to the goal.[60]

Even if the restriction meets the above three criteria, it still must **not be imposed for discriminatory purposes or applied in a discriminatory manner**. The right to nondiscrimination is generally considered in conjunction with other rights, such as FRCB.[61] Treatment is discriminatory if it has "no objective and reasonable justification".[62] Courts will analyze whether restrictions on the manifestation of individuals' religion, conscience or beliefs are discriminatory, while also determining whether the restrictions are based on a legitimate aim, necessary to achieve that aim, and proportionate.[63]

> **Tip for Advocates:** Human rights bodies tend to focus their analysis on the "necessary and proportionate" requirement, and regional systems vary in how they interpret this requirement. Generally, the HRC sets a high threshold for state interference and places the burden of proof on the state, while the European Court is more deferential to states. The African system has emphasized that limitations must be exceptional, necessary, and narrowly tailored, with more severe restrictions corresponding to a higher burden of proof.

Because, as discussed above, the provision of, support for and/or decision to obtain abortion care can qualify as a protected manifestation of belief under FRCB, restrictions on abortion must satisfy all three prongs to be permissible under international law, as well as be non-discriminatory in their purpose and application. Although abortion bans are typically prescribed by law, advocates should examine the text of the legislation, legislative history, and official statements by legislative sponsors—in addition to the



state's articulation of its interests—to determine if the law serves a legitimate aim. Restrictions on abortion, especially those imposing harsh criminal penalties or allowing for limited exceptions, may also fail under either necessity or proportionality requirements, as they may cause disproportionate harm to abortion-seekers and medical professionals who feel morally and ethically compelled to provide comprehensive reproductive healthcare. Restrictive laws also chill participation in reproductive healthcare, exclude providers from the field, and threaten patients with delayed or denied care. Data showing preventable maternal deaths, psychological harm to patients, or forced moral conflicts among providers could strengthen the argument that these bans are not the least restrictive means of achieving public health goals.[64]

In sum, if an individual's belief and their manifestation of that belief is protected, state restrictions on that manifestation violate FRCB if they fail to comply with the above-referenced limitations test. Along these lines, if an abortion or reproductive decision is rooted in an individual's protected belief, preventing that individual from receiving an abortion or abortion care may be a violation of their right to FRCB. (See "How to Make a FRCB Claim" below)

Enabling Individuals to Exercise their FRCB in the Context of Abortion

In addition to States' obligation to refrain from unjustly infringing on individuals' FRCB, States have positive obligations to ensure individuals can enjoy this right, including through adopting appropriate legislative, judicial, administrative, educational, and other measures.[65] In other words, States have a responsibility to create the legal and institutional conditions in which individuals can effectively provide, support, or obtain abortion care in accordance with their conscience or beliefs.[66]

All too often, institutional policies prohibiting abortion care, widespread refusals of care, professional retaliation, stigma, harassment, and/or the absence of effective mechanisms that enable individuals to provide or support abortion care, impede the exercise of FRCB, among other rights.[67] In these cases, States' non-interference with the right to FRCB may be insufficient and broader claims should be brought asserting States' positive obligation to create a legal, policy and practice environment that enables individuals to exercise their right to FRCB.

What are some emerging developments in FRCB advocacy?

Advocacy for broadening interpretations of FRCB has not been limited to the courtroom. Medical professional organizations are also leading advocacy on the provision of reproductive care and medical providers' conscience. Many have acknowledged physicians' role in protecting abortion care, even developing standards for conflicting conscience arguments in reproductive healthcare, emphasizing protections for pregnant patients.[69] Additionally, they are raising awareness around the health and human rights impacts of conscience-based refusals and institutional policies that conflict with some professionals' conscience and professional obligations.[70]

Policy and Practice Considerations

There are several advantages to leveraging international human rights law to protect provision of and support for abortion care as an exercise of religion, conscience, or belief. Advocating for abortion access as a matter of FRCB can be effective in contexts where abortion rights are under attack. Often, the right to FRCB has been solely applied to a narrow concept of religion, conscience or belief. This approach can reclaim the FRCB narrative from opposition movements that have painted refusals of care as the sole manifestation of

conscience in the context of abortion, emphasizing that a range of beliefs are protected under FRCB.[68] It also creates an affirmative rights-based justification for the provision of abortion care, which can be used to advocate for laws that protect providers who are compelled by conscience in the same ways that laws protect conscientious objectors, and can decrease the stigmatization that they face. It further complements the realization of other human rights, including the rights to life, health, and equality.

It should be noted that bringing FRCB claims in the context of abortion is not without risks. Advocates and practitioners should keep in mind that FRCB arguments can pose risks to practitioners seeking to assert them. Opponents may take advantage of added emphasis on FRCB to bolster protections for conscience-based refusals of care. Additionally, this approach could be used to reinforce recognition of conscientious provision only as an exception to abortion bans, rather than framing abortion care as a fundamental right. Moreover, only those who meet strict legal criteria, such as possessing sincere and substantiated beliefs that are closely linked to their course of action, are eligible for FRCB protections, as opposed to all providers and supporters of abortion care. Litigation could also give courts the chance to revisit previous decisions supportive of reproductive rights. Further, some question also whether women's and girls' emancipation can truly be achieved in the name of religion, and whether FRCB arguments can lead to progressive abortion law reform and/or transformative change, as opposed to simply reducing criminalization or harm in an individual case.

These concerns should be taken account of for every possible claim, but should not obscure that FRCB claims also can hold much promise. Significantly, they can potentially thwart unjust criminalization of supportive reproductive healthcare providers and supporters. They can also provide a strong basis for law reform given the human rights impacts at stake, as well as inform the public about the full scope of protection provided under the right to FRCB. In the end, legal practitioners, advocates, policymakers, and the like should carefully consider these strategic implications, take note of any context-specific factors, and engage with movement actors when deciding whether to bring a FRCB claim in the context of abortion.

How to Develop a FCRB Claim

Demonstrate that the abortion seeker, medical professional or supporter sincerely holds a belief protected under the international right to FRCB that supports abortion care or the provision of abortion services.

Look to the section on **Beliefs Protected Under FRCB** for more information

- ✓ Establish that the belief is sincerely held
- ✓ Establish that the belief is substantiated
- ✓ Consider advancing less established arguments like feminism or professional duties as protected grounds

Show abortion care or the provision of abortion services is a protected manifestation of the abortion seeker, medical professional or supporter's protected conscience or belief.

Look to literature or practice of the beliefs of the abortion seeker or medical professionals belief system information

- ✓ Display the connection between the protected belief and the support or provision of abortion
- ✓ Comparable exercises of the manifestation of other beliefs of the abortion seeker or medical professional that are not interfered with by the state

How to Develop a FCRB Claim

(*cont.*)

Conduct research on the state's obligations to protect FCRB under international law.

- Look to the **Key International and Regional Instruments** within this guide as a starting point

Conduct research on the state's obligations to protect FCRB under domestic law.

- Look to statutes that impose obligations upon the state
- Look to cases to analogize or distinguish, especially cases that most commonly deal with FRCB such as in military service or other conscientious objection to reproductive healthcare services.

Show the state denies or infringes on abortion care or the provision of abortion services, therefore violating the abortion seeker, medical professional or supporter's manifestation of their protected conscience or belief.

- See the **Permissible Limitations on Manifestations of FRCB** for more information
  - ✓ Consider whether the denial or infringement is a permissible limitation on the manifestation of FRCB. Consider:
    - ❑ Is it prescribed by law?
    - ❑ Does it pursue a legitimate governmental aim?
    - ❑ Is it necessary and proportionate to that aim?
    - ❑ Is it discriminatory in intent or in its application?

Prepare for counterarguments.

- Look to the **policy and practices considerations** section of this guide to identify some initial counterarguments and consider the potential impacts of bringing FRCB claims in the context of abortion.

Identify a forum to bring your claims.

- Identify the local or national court through which a claim can be brought and consider their receptivity to human rights claims.
- Consider the range of human rights bodies to which claims can be brought, including the UN Human Rights Committee, the European Court of Human Rights, European Commission of Human Rights, European Committee of Social Rights, the Africa Court of Human and Peoples' Rights, African Regional Courts, Inter-American Commission on Human Rights, Inter-American Court of Human Rights. Note that human rights bodies often require petitioners to attempt to bring their claims before domestic courts before submitting to the human rights body.

Conclusion

FRCB is well-established in international and regional human rights law. These protections encompass a range of belief systems, including a range of religious traditions and belief systems. Although some healthcare providers refuse to provide abortion care based on conscience or religion, FRCB can also be asserted to protect the provision of and support for abortion care when it is a direct manifestation of a sincerely held and substantiated belief. Courts around the world have recognized this, including in Colombia, Canada, and the United States. Though governments may limit FRCB under certain conditions, international human rights law requires that any limitations be prescribed by law, necessary, the least restrictive means of achieving a legitimate goal, and non-discriminatory. Practitioners and advocates should analyze laws that criminalize abortion according to these standards, while considering the facts and nuances specific to each case.

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1 Global Justice Center, Q&A: How International Law Protects Abortion Access in the US (2022), https://www.globaljusticecenter.net/wp-content/uploads/2024/09/20220927_AbortionIntlLawFactsheet_FINAL.pdf.

2 This Guide builds off a closed-door expert convening in March 2025, and a three-part webinar series hosted by the Global Justice Center, also in 2025.

3 International Covenant on Civil and Political Rights (ICCPR), 999 UNTS 171, Art. 18 (1967), Art 18(3) [hereinafter ICCPR]; Convention on the Rights of the Child (CRC), 1577 UNTS 3, Art. 14(3) (1989) [hereinafter CRC]; Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, G.A. Res. 36/55, Art. 1(3) (1981) [hereinafter Declaration on Religious Intolerance]; Convention for the Protection of Human Rights and Fundamental Freedoms, 213

UNTS 221, Art. 9(2) (1950) [hereinafter ECHR]; American Convention on Human Rights (ACHR), 1144 UNTS 123, Art. 12(3) [hereinafter ACHR]; Arab Charter on Human Rights, CHR/NONE/2004/40/Rev.1, Art. 30(2) (2004) [hereinafter Arab Charter on Human Rights]. Courts may analyze permissible limitations of one's religion or belief through their domestic legislation and jurisprudence. *See* Corte Constitucional, Feb. 21, 2022, Sentencia C-055/22, ¶¶ 409-426 (Colom.) (English translation edited for clarity) (analyzing formal limits prescribed by law and proportional material limits) [hereinafter Corte Constitucional - Sentencia C-055/22]; *R. v. Morgentaler*, [1988] 1 S.C.R. 30, 73-76(Can.) (analyzing infringement on constitutionally protected right akin to limitations analysis) [hereinafter Supreme Court of Canada, *R. v. Morgentaler*]; *Individual Members of Med. Licensing Bd. of Indiana v. Anonymous Plaintiff 1*, 233 N.E.3d 416, 451 (Ind. Ct. App.), transfer denied, 246 N.E.3d 271 (Ind. 2024) (analyzing limitations on religion and conscience through Indiana's RFRA statute) [hereinafter *Individual Members of Med. Licensing Bd. of Indiana v. Anonymous Plaintiff 1*].

4 Human Rights Committee (HRC), *General Comment No. 22 on freedom of thought, conscience or religion (article 18)*, CCPR/C/21/Rev.1/Add.4, ¶ 30, (July 30, 1993) [hereinafter HRC, *General Comment No. 22*]; *Interim Report of the Special Rapporteur on freedom of religion*, A/71/269, ¶¶ 17–18 (Aug. 2, 2016) [hereinafter *Interim Report of the Special Rapporteur on freedom of religion*].

5 E.g., HRC, *Brinkhof v. Netherlands*, CCPR/C/48/D/402/1990 (July 27, 1993) (objecting to military and substitute service due to pacifist convictions) [hereinafter HRC, *Brinkhof v. Netherlands*].

6 E.g., *Pindo Mulla v. Spain*, App. No. 15541/20, Judgment, European Court Human Rights (Eur. Ct. H.R.) (Grand Chamber), ¶ 181 (Sept. 17, 2024), https://hudoc.echr.coe.int/fre?i=001-236065 (refusing a blood transfusion due to beliefs as a Jehovah's Witness) [hereinafter Eur. Ct. H.R., *Pindo Mulla v. Spain*].

7 *See Unconscionable: When Providers Refuse Abortion Care*, INTERNATIONAL WOMEN'S HEALTH COALITION & MUJER SALUD EN URUGUAY (2018), https://www.mysu.org.uy/wp-content/uploads/2018/06/Informe-OC-en-ingle%CC%81s.pdf; Office of the United Nations High Commissioner on Human Rights (OHCHR), *Conscientious Objection to Military Service*, HR/PUB/12/1 (2012), http://www.ohchr.org/Documents/Publications/ConscientiousObjection_en.pdf; *Conscientious Objection: A Barrier to Care*, INTERNATIONAL FEDERATION OF GYNECOLOGY AND OBSTETRICS (FIGO) (Oct. 2021), https://www.figo.org/resources/figo-statements/conscientious-objection-barrier-care [hereinafter FIGO, *Conscientious Objection: A Barrier to Care*].

8 *See, e.g.*, *Dianna Ortiz v. Guatemala*, Case No. 31-96, Report No. 31/96, Inter-American Commission on Human Rights (Inter-Am. Comm'n H.R.), ¶ 119 (Oct. 16, 1996), https://hrlibrary.umn.edu/cases/1996/guatemala31-96.htm (discussing right to engage in missionary work); *Plan de Sánchez Massacre v. Guatemala*, Judgment, Inter-American Court of Human Rights (Inter-Am. Ct. H.R.), ¶ 42(30) (Nov. 19, 2004), https://www.corteidh.or.cr/docs/casos/articulos/seriec_105_ing.pdf (right to bury kin according to one's customs); *Polat v. Austria*, App. No. 12886/16, Judgment, Eur. Ct. H.R. (Fourth Section), ¶¶ 89–91 (July 20, 2021), https://hudoc.echr.coe.int/fre?i=001-211365 (right to bury kin according to one's customs); *Amnesty Int'l v. Zambia*, Communication No. 212/98, Decision, African Commission on Human & Peoples' Rights (Afr. Comm'n H.P.R.), ¶¶ 46–47, 54 (May 5, 1999), https://africanlii.org/akn/aa-au/judgment/achpr/1999/1/eng@1999-05-05 [hereinafter Afr. Comm'n H.P.R., *Amnesty Int'l v. Zambia* (right to engage in political activities); *Ctr. for Minority Rts. Dev. (Kenya) and Minority Rts. Grp. (on behalf of Endorois Welfare Council) v. Kenya*, Communication No. 276/03, Decision, Afr. Comm'n H.P.R., ¶¶ 165–168 (Nov. 25, 2009), https://www.refworld.org/jurisprudence/caselaw/achpr/2010/71724 (right to use spaces to conduct rituals); HRC, *Prince v. South Africa*, CCPR/C/91/D/1474/2006, ¶ 7.2 (Oct. 31, 2007) [hereinafter HRC, *Prince v. South Africa*] (discussing right to ingest substances).

9 UN General Assembly, Universal Declaration of Human Rights (UDHR) 217 A (III), Art. 18 (1948) [hereinafter UDHR].

10 *See* ICCPR, *supra* note 3, at Art. 18.

11 CRC, *supra* note 3, at Art. 14.

12 Declaration of Religious Intolerance, *supra* note 3, at Art. 1.

13 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, G.A. Res. 47/135, Arts. 2, 4 (1992).

14 ECHR, *supra* note 3, at Art. 9.

15 ACHR, *supra* note 3, at Art. 12.

16 African Charter on Human and Peoples' Rights (African Charter), 1520 UNTS 217, Art. 8 (1982).

17 Arab Charter on Human Rights, *supra* note 3, at Art. 30.

18 Charter of Fundamental Rights of the European Union (EU Charter), 2012/C 326/02 O.J. 391, Art. 10 (2012) [hereinafter EU Charter].

19 *HRC, General Comment No. 22*, *supra* note 4, at ¶¶ 1–2; *see also Interim Report of the Special Rapporteur on freedom of religion*, *supra* note 4, at ¶ 14; *C.W. v. United Kingdom*, App. No. 18187/91, Decision on Admissibility, European Commission of Human Rights (Eur. Comm'n H.R.) (Second Chamber) (Feb. 10, 1993), https://hudoc.echr.coe.int/eng?i=001-1503 [hereinafter Eur. Comm'n H.R., *C.W. v. United Kingdom*] (discussing protections of personal convictions); Afr. Comm'n H.P.R., *Amnesty Int'l v. Zambia*, *supra* note 8, at ¶ 54 (discussing protections of political convictions); *Arrowsmith v. United Kingdom*, App. No. 7050/75, Report, Eur. Comm'n H.R., ¶ 69 (May 16, 1977), https://hudoc.echr.coe.int/eng?i=001-104188 [hereinafter Eur. Comm'n H.R., *Arrowsmith v. United Kingdom*] (discussing protections of philosophical convictions).

20 *See* HRC, *Brinkhof v. Netherlands*, *supra* note 5, at ¶¶ 8, 9.2, 9.3 (finding that the author "failed to show that his convictions as a pacifist are equally strong as those of Jehovah's Witnesses," who "form a closely-knit social group with strict rules of behaviour"); *Nadia Eweida v. United Kingdom*, App. No. 48420/10, Judgment, Eur. Ct. H.R. (Fourth Section), ¶ 81 (Jan. 15, 2013), https://hudoc.echr.coe.int/fre?i=001-115881 [hereinafter Eur. Ct. H.R., *Nadia Eweida v. United Kingdom*] (establishing that a view must "attain a certain level of cogency, seriousness, cohesion and importance" to be considered an accepted religion or belief under Article 9 of the ECHR); *Cristián Daniel Sahli Vera, et al. v. Chile*, Case No. 12.219, Report No. 43/05, Inter-Am. Comm'n H.R., ¶¶ 38, 45 (Mar. 10, 2005), https://www.refworld.org/jurisprudence/caselaw/iachr/2005/87413 (noting that the HRC reviews "whether there exists a belief system grounded in a coherent or 'philosophical' framework, and is unwilling to accept mere self-definition as a conscientious objector").

21 *The Mishnah*, Ohalot 7:6, https://www.sefaria.org/Mishnah_Oholot.7.6; Rabbinical Assembly, *Committee on Jewish Law and Standards*, https://www.rabbinicalassembly.org/story/resources-reproductive-freedom (1983); *Central Conference of American Rabbis and Women's Rabbinic Network Resolution Affirming Our Commitment to Broad, Accessible Reproductive & Sexual Health Care*, CENTRAL CONFERENCE OF AMERICAN RABBIS, (Apr. 18, 2024), https://www.ccarnet.org/ccar-resolutions/ccar-womens-rabbinic-network-resolution-affirming-our-commitment-to-broad-accessible-reproductive-sexual-health-care/.

22 *See, e.g.*, National Council of Jewish Women, *The Torah of Reproductive Freedom*, https://www.jewsforabortionaccess.org/all-resources/the-torah-of-reproductive-freedom (last visited Feb. 3, 2026).

23 Unitarian Universalist Association, *Seven UU Principles*, https://www.uua.org/beliefs/what-we-believe/principles (last visited June 11, 2026).

24 Unitarian Universalist Ass'n, *Reproductive Justice Statement of Conscience*, (July 1, 2015), https://www.uua.org/action/statements/reproductive-justice ("As Unitarian Universalists we covenant to uphold our seven principles. The first, second and sixth principles are the most applicable to Reproductive Justice. We are all relational beings with varying abilities, preferences, and identities. Unitarian Universalism calls us to advocate for the positive expression of sexuality, including choices about reproduction and nurturing, and for a culture of respect and empowerment").

25 The Book of Discipline of the United Methodist Church ¶ 162(K) (2020/2024), https://issuu.com/cokesbury/docs/the_book_of_discipline_of_the_united_methodist_chu?fr=xKAE9_zU1NQ; General Convention of the Episcopal Church, Res. 1994-A054, *Reaffirm General Convention Statement on Childbirth and Abortion*, J. OF THE GENERAL CONVENTION, 71st Gen. Conv., 323–25 (1995), https://digitalarchives.episcopalarchives.org/cgi-bin/acts/acts_resolution.pl?resolution=1994-A054; General Convention of the Episcopal Church, Res. 2018-D032, *Advocate for Gender Equity, Including Reproductive Rights, in Healthcare*, J. OF THE GENERAL CONVENTION, 79th Gen. Conv., 442 (2018), https://digitalarchives.episcopalarchives.org/cgi-bin/acts/acts_resolution.pl?resolution=2018-D032; Presbyterian Church (U.S.A.), *On Affirming Reproductive Justice*, GEN. ASSEMB. 225 (2022), https://www.pc-biz.org/search/3001108.

26 *See* Rabea Benhalim, *Agreeing to Disagree: Abortion Jurisprudence in Jewish and Islamic Law*, 50 BYU L. Rev. 1217, 1268–1283 (2025), https://scholar.law.colorado.edu/cgi/viewcontent.cgi?article=2695&context=faculty-articles (analyzing Islamic schools of thought and permissibility of abortion). There is a wide array of opinions within Islamic jurisprudence on abortion, but the plurality opinion supports abortions in different circumstances. *See id.* at 1256. For example, Sharia scholars note that when the maternal life is threatened, the primary concern should be for the life and welfare of the mother. *See id.* at 1279-80. Within Sunni schools, the Maliki opinions allow abortion when the mother's life is threatened, and Hanafi recognizes abortion up to a period of time. *See id.* at 1283; *see also* Omar Suleiman, Islam and the Abortion Debate, Yaqeen Institute for Islamic Research (March 20, 2017) https://yaqeeninstitute.org/read/paper/islam-and-the-abortion-debate.

27 *See, e.g.*, Religious Community for Reproductive Choice, https://www.rcrc.org.

28 *See Kokkinakis v. Greece*, App. No. 14307/88, Judgment, Eur. Ct. H.R. (Chamber), ¶ 50 (May 25, 1993), https://hudoc.echr.coe.int/eng?i=001-57827; *Jakóbski v. Poland*, App. No. 18429/006, Judgment Eur. Ct. H.R. (Fourth Section), ¶¶ 54-55 (Dec. 7, 2010), https://hudoc.echr.coe.int/eng?i=001-102121; *see also Hamzayan v. Armenia*, App. No. 43082/14, Judgment, Eur. Ct. H.R. (Chamber), ¶¶ 40, 50-54 (Feb. 6, 2024), https://hudoc.echr.coe.int/?i=001-230705 (emphasizing Article 9 protection is not limited only to registered religious organizations stating "[t]his freedom is, in its religious dimension, one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for

atheists, agnostics, sceptics and the unconcerned").

29 UDHR, *supra* note 9, at Art. 18; ICCPR, *supra* note 3, at Art. 18(1); Declaration on Religious Intolerance, *supra* note 3, at Art. 1(1); ECHR Art. 9(1); EU Charter, supra note 18, at Art. 10(1); HRC, *Prince v. South Africa*, *supra* note 8, at ¶ 7.2 (recalling that "the freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts and that the concept of worship extends to ritual and ceremonial acts giving expression to belief, as well as various acts integral to such acts").

30 Eur. Ct. H.R., *Nadia Eweida v. United Kingdom*, *supra* note 20, at ¶ 82.

31 *WMA Declaration of Geneva*, WORLD MEDICAL ASSOCIATION (Oct. 2017), https://www.wma.net/policies-post/wma-declaration-of-geneva.

32 *AMA Code of Medical Ethics*, AMERICAN MEDICAL ASSOCIATION (adopted June 1957, revised June 1980 & June 2001), https://code-medical-ethics.ama-assn.org.

33 *See* Bernard Dickens, *Conscientious Objection and the Duty to Refer*, 155 INT. J. GYNECOL. OBSTET. 556–560 (2021) (While a medical provider's conscience may excuse them personally performing a nonemergency procedure, that does not extinguish their overarching duty of care to patients, which includes ensuring an appropriate pathway to continued treatment, and when a medical provider's personal religious interest conflicts with the patient's interest, the patient's interest generally prevails within the professional relationship).

34 *See* FIGO, *Conscientious Objection: A Barrier to Care*, *supra* note 7; *see also The Limits of Conscientious Refusal in Reproductive Medicine*, AMERICAN COLLEGE OF OBSTETRICIANS & GYNECOLOGISTS (ACOG), Committee on Ethics, Opinion No. 385 (Nov. 2007, reaffirmed 2019) https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2007/11/the-limits-of-conscientious-refusal-in-reproductive-medicine [hereinafter ACOG, *The Limits of Conscientious Refusal in Reproductive Medicine*] ("By virtue of entering the profession of medicine, physicians accept a set of moral values—and duties—that are central to medical practice. Thus, with professional privileges come professional responsibilities to patients, which must precede a provider's personal interests.").

35 B. Merner, et al., *Health Providers' Reasons for Participating in Abortion Care: A Scoping Review*, 20 WOMEN'S HEALTH (2024), https://pmc.ncbi.nlm.nih.gov/articles/PMC10908244 [hereinafter *Health Providers' Reasons for Participating in Abortion Care: A Scoping Review*] ("From 3,251 records retrieved, 68 studies were included. In descending order, reasons for participating in abortion were as follows: supporting women's choices and advocating for women's rights (76%); being professionally committed to participating in abortion (50%); aligning with personal, religious or moral values (39%) . . .").

36 *See* FIGO, *Conscientious Objection: A Barrier to Care*, *supra* note 7.

37 *See, e.g.*, Eur. Ct. H.R., *Pindo Mulla v. Spain*, *supra* note 6, at ¶ 181 (acknowledging that doctors who administer life-saving blood transfusions are guided by "the most fundamental norm of the medical profession").

38 *See e.g.*, Eur. Comm'n H.R., *C.W. v. United Kingdom*, *supra* 19 (recognized veganism as a protected belief, but found that requiring the petitioner to print flyers with ink made of animal products or tested on animals was justified because the prison work requirement was prescribed by law; it pursued the legitimate aim of maintaining prison order; the restriction was proportionate; and the disciplinary penalties for not complying were relatively minor); Eur. Comm'n H.R., *Arrowsmith v. United Kingdom*, *supra* note 19, at ¶ 69 (recognizing pacifism as a protected belief but found that passing out flyers was not a protected manifestation of that belief).

39 *See, e.g.*, HRC, *Mellet v. Ireland*, CCPR/C/116/D/2324/2013 (Mar. 31, 2016) (condemning an abortion restriction as discriminatory because it subjected women to gender-based stereotypes); OHCHR, *Integrating a Gender Perspective into Human Rights Investigations: Guidance and Practice* (2018), https://www.ohchr.org/en/publications/policy-and-methodological-publications/integrating-gender-perspective-human-rights (promoting the use of a "gender perspective" in human rights advocacy); S.C. Res. 1325, U.N. Doc. S/RES/1325 (Oct. 31, 2000) (calling for the incorporation of gender perspectives in peacekeeping and post-conflict reconstruction)

40 *Health Providers' Reasons for Participating in Abortion Care: A Scoping Review, supra* note 35 (finding that 76% of medical providers cited women's rights as the central reason for providing abortion care).

41 *See* Corte Constitucional, *supra* note 3, at ¶ 371.

42 *Id.* at ¶ 374 (English translation edited for clarity).

43 *Id.* at ¶ 398 (English translation edited for clarity).

44 Supreme Court of Canada, *R. v. Morgentaler*, *supra* note 3, at 36-37.

45 Jessie Hill, *Religious Freedom Claims Could Provide New Path to Protect Abortion Rights*, State Court Report (Sept. 18, 2024, updated Mar. 8, 2026), https://statecourtreport.org/our-work/analysis-opinion/religious-freedom-claims-could-provide-

new-path-protect-abortion-rights; *see also* Columbia Law School: Law, Rights, and Religion Project, *Questions & Answers On the Religious Right to Abortion*, https://lawrightsreligion.org/our-work/questions-and-answers-on-religious-right-to-abortion.

46 *Indiana Court Grants Permanent Injunction in ACLU of Indiana Religious Freedom Challenge to Abortion Ban*, ACLU (Mar. 5, 2026), https://www.aclu-in.org/press-releases/indiana-court-grants-permanent-injunction-in-aclu-of-indiana-religious-freedom-challenge-to-abortion-ban.

47 *Individual Members of Med. Licensing Bd. of Indiana v. Anonymous Plaintiff 1, supra* note 3, at ¶ 117 (granting plaintiffs' request for a preliminary injunction).

48 *Anonymous Plaintiff 1 v. Individual Members of Med. Licensing Bd. of Indiana*, Order, No. 49D01-2209-PL-031056 (Marion Super. Ct. Mar. 5, 2026), transfer granted, https://live-awp-indiana.pantheonsite.io/app/uploads/2026/03/Proposed-Order-3.pdf. Note, as of June 2026, this case is under consideration by the Indiana Supreme Court under Indiana Rules of Appellate Procedure Rule 56(A), which allows transfer when there is a showing that the appeal "involves a substantial question of law of great public importance." Ind. R. App. P. 56(A).

49 *Planned Parenthood Ass'n of Utah v. State*, 2024 UT 28, 554 P.3d 998.

50 Amended Complaint ¶ 92, *Planned Parenthood Ass'n of Utah v. State*, No. 220903886 (Utah 3d Dist. Ct. Aug. 2022). Note, as of June 2026, the transfer of this case to a newly developed panel is being challenged under the Utah state constitution.

51 HRC, *General Comment No. 31 on the nature of the general legal obligation imposed on States Parties to the Covenant*, CCPR/C/21/Rev.1/Add.13, ¶¶ 6-8 (Mar. 29, 2004) [hereinafter HRC, *General Comment No. 31*].

52 *HRC, General Comment No. 34 on freedoms of opinion and expression (article 19)*, CCPR/C/GC/34, ¶ 25 (Sept. 12, 2011) (discussing the legality requirement in the context of freedom of expression); *see also Güler and Uğur v. Turkey*, App. Nos. 31706/10 & 33088/10, Judgment [Extracts], Eur. Ct. H.R. (Second Section), ¶¶ 45–57 (Dec. 2, 2014), https://hudoc.echr.coe.int/eng?i=001-148610 (finding that the interference with applicants' freedom of religion was not "prescribed by law" because "applicants could not have reasonably foreseen that their participation in a religious ceremony would be criminalized under anti-terrorism legislation").

53 ICCPR, *supra* note 3, at Art. 18(3); *see also* CRC, *supra* note 3, at Art. 14(3); Declaration on Religious Intolerance, *supra* note 3, at Art. 1(3); ECHR, *supra* note 3, at Art. 9(2); ACHR, *supra* note 3, at Art. 12(3); Arab Charter on Human Rights, *supra* note 3, at Art. 30(2).

54 HRC, *General Comment No. 22*, *supra* note 4, at ¶ 8.

55 *See, e.g., Leyla Şahin v. Turkey*, App. No. 44774/98, Judgment, Eur. Ct. H.R. (Grand Chamber), ¶ 99 (Nov. 10, 2005), https://hudoc.echr.coe.int/eng?i=001-70956; *S.A.S. v. France*, App. No. 43835/11, Judgment, Eur. Ct. H.R. (Grand Chamber), ¶ 114 (July 1, 2014), https://hudoc.echr.coe.int/fre?i=001-145466 [hereinafter Eur. Ct. H.R., *S.A.S. v. France]*

56 *Nolan and K. v. Russia*, App. No. 2512/04, Judgment, Eur. Ct. H.R. (First Section), ¶ 73 (Feb. 12, 2009), https://hudoc.echr.coe.int/fre?i=001-91302.

57 Eur. Ct. H.R., *S.A.S. v. France*, *supra* note 55, at ¶¶ 113–122.

58 ICCPR, *supra* note 3, at Art. 18(3); CRC, *supra* note 3, at Art. 14(3), Declaration on Religious Intolerance, *supra* note 3, at Art. 1(3); ECHR, *supra* note 3, at Art. 9(2), ACHR, *supra* note 3, at Art. 12(3); Arab Charter on Human Rights, *supra* note 3, at Art. 30(2). Courts may analyze permissible limitations of one's religion or belief through their domestic legislation and jurisprudence. *See* Corte Constitucional - Sentencia C-055/22, *supra* note 3, at ¶¶ 409-426 (English translation edited for clarity) (analyzing formal limits prescribed by law and proportional material limits); Supreme Court of Canada, *R. v. Morgentaler, supra* note 3, at 73-76 (analyzing infringement on constitutionally protected right akin to limitations analysis); *Individual Members of Med. Licensing Bd. of Indiana v. Anonymous Plaintiff 1, supra* note 3 at 451 (analyzing limitations on religion and conscience through Indiana's RFRA statute).

59 HRC, *General Comment No. 22*, *supra* note 4, at ¶ 30; *Interim Report of the Special Rapporteur on freedom of religion*, *supra* note 4, at ¶¶ 17–18.

60 HRC, *General Comment No. 22*, *supra* note 4, at ¶ 8; HRC, *Yaker v. France*, CCPR/C/123/D/2807/2016, ¶¶ 8.4, 8.8, 8.11 (July 17, 2018) (finding that a ban on full-face coverings in public was neither proportionate nor the least restrictive means necessary to achieving the stated aims of public order and safety and facilitating "living together").

61 *Religionsgemeinschaft der Zeugen Jehovas and Others v. Austria*, App. No. 40825/98, Judgment, Eur. Ct. H.R. (First Section), ¶ 87 (July 31, 2008) (European Court of Human Rights found that there was a violation of Article 14 (freedom from discrimination) in conjunction with its finding there was a violation of Article 9 (freedom of thought, conscience and religion) because there was objective or reasonable justification for the differential treatment). *Id.* at ¶ 99.

62 *Id.* at ¶ 87 ("Moreover, a difference of treatment is discriminatory if it has no objective and reasonable justification, that is, if it does not pursue a legitimate aim or if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be realised").

63 *See id.* ("Moreover, a difference of treatment is discriminatory if it has no objective and reasonable justification, that is, if it does not pursue a legitimate aim or if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be realised").

64 Amanda Jean Stevenson, *The Pregnancy-Related Mortality Impact of a Total Abortion Ban in the United States: A Research Note on Increased Deaths Due to Remaining Pregnant*, 58 DEMOGRAPHY 2019, 2024–25 (2021), https://read.dukeupress.edu/demography/article/58/6/2019/265968/The-Pregnancy-Related-Mortality-Impact-of-a-Total (study estimated that a nationwide abortion ban would produce approximately 49 additional pregnancy-related deaths in the first year and 140 additional deaths annually thereafter—a 21% increase); *Maria W. Steenland et al., Pregnancy- and Abortion-Related Mortality in the US*, 2018–2021, JAMA Network Open (2026), https://pubmed.ncbi.nlm.nih.gov/41563758 (using national mortality data, the authors found that mortality associated with continued pregnancy was approximately 44 to 70 times higher than mortality associated with abortion. The authors conclude that eliminating abortion requires pregnant people to assume the substantially greater health risks of continued pregnancy); M. Antonia Biggs *et al., Women's Mental Health and Well-Being Five Years After Receiving or Being Denied an Abortion: A Prospective, Longitudinal Cohort Study*, 74 JAMA PSYCHIATRY 169, 173–76 (2017), https://jamanetwork.com/journals/jamapsychiatry/fullarticle/2592320#google_vignette (in the week after seeking care, patients denied abortions reported significantly greater anxiety, lower self-esteem, and lower life satisfaction than patients who received abortions. The differences diminished over time, so this source is best used to establish significant short-term psychological harm—not permanent psychiatric injury); Erika L. Sabbath et al., U.S. Obstetrician-Gynecologists' Perceived Impacts of Post-Dobbs v Jackson State Abortion Bans, 157 JAMA NETWORK OPEN (2024), https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2814017 (interviews with 54 OB-GYNs in 13 ban states documented delayed care until patients became sicker, inability to provide or refer for appropriate care, moral distress, anxiety and depression symptoms, fear of prosecution, and intentions to leave their states); Amy L. Schultz *et al., Impact of Post-Dobbs Abortion Restrictions on Maternal-Fetal Medicine Physicians in the Southeast: A Qualitative Study*, 231 AMER. J. OF OBSTET. & GYNECOL. MFM 322 (2024), https://pubmed.ncbi.nlm.nih.gov/38772442 (abortion restrictions created ethical, professional, and legal conflicts, caused departures from patient-centered care, and generated fear, hypervigilance, heavier workloads, and emotional distress among maternal-fetal medicine physicians).

65 HRC, *General Comment No. 31, supra* note 51, at ¶¶ 6-8.

66 *See* World Health Organization, Abortion Care Guideline (2nd Ed.), Ch. 2 (2025), https://www.who.int/publications/i/item/9789240104204; *see also* Elizabeth Nash and Isabel Guarnieri, Guttmacher Institute, *Eight Ways State Policymakers Can Protect and Expand Abortion Rights and Access in 2023* (2023), https://www.guttmacher.org/2023/01/eight-ways-state-policymakers-can-protect-and-expand-abortion-rights-and-access-2023.

67 *See, e.g.*, European Committee on Social Rights, *Confederazione Generale Italiana del Lavoro (CGIL) v. Italy*, Complaint No. 91/2013 (2016) (The Committee found a violation of the right to work and the right to dignity in work because the state had failed to adequately address the burdensome workload on non-objecting doctors caused by the high percentage of doctors who refused to provide abortion services, which had a negative impact on career trajectories) *Id.* at ¶¶ 214-246, 282-298; *see also* Satang Nabaneh, *Abortion and 'Conscientious Objection' in South Africa: The Need for Regulation*, in ADVANCING SEXUAL AND REPRODUCTIVE FIGHTS IN AFRICA: CONSTRAINTS AND OPPORTUNITIES, 16-24 (2021).

68 *See, e.g.*, Rebecca Peters, *"Me and God, We're Good": Abortion Morality and Protestant Women Having Abortions in the South*, J. FOR THE SCI. STUDY OF RELIGION, https://onlinelibrary.wiley.com/doi/10.1111/jssr.70046. Given the extent to which religion has been historically used to tell a narrow, patriarchal, and divisive story about abortion and religion in the U.S., documenting the stories of religious people having abortions offers a revealing insight that can serve as an important corrective in both public and scholarly narratives about abortion.

69 *See* ACOG, *The Limits of Conscientious Refusal in Reproductive Medicine, supra* note 34.

70 *Id.* (providing as an example, policies mandating physician reporting policies that mandate physician reporting of undocumented patients to immigration authorities conflict with norms such as privacy and confidentiality and the primary principle of nonmaleficence that govern the provider–patient relationship).