



Plenary sitting

B9-0490/2021

5.10.2021

MOTION FOR A RESOLUTION

with request for inclusion in the agenda for a debate on cases of breaches of human rights, democracy and the rule of law

pursuant to Rule 144 of the Rules of Procedure

on **The state law relating to abortion in Texas, USA**
(2021/2910(RSP))

Marisa Matias
on behalf of The Left Group

European Parliament resolution on The state law relating to abortion in Texas, USA (2021/2910(RSP))

The European Parliament,

- having regard to the UN Covenants on Civil and Political Rights and on Economic Social and Cultural Rights of 1966,
- having regard to the International Covenant on Economic, Social and Cultural Rights of 1966,
- having regard to the Convention on the Elimination of All Forms of Discrimination against Women (1979),
- having regard to the Convention on the Rights of the Child (1989),
- having regard to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984,
- having regard to the Convention on the Rights of Persons with Disabilities of 2006,
- having regard to the UN Sustainable Development Goals (SDGs) agreed in 2015 and in particular goals 1, 2 and 5, respectively on eliminating poverty and promoting well-being and Gender Equality,
- having regard to the Beijing Platform for Action and the outcomes of its review conferences,
- having regard to the 1994 International Conference on Population and Development (ICPD) in Cairo, its Programme of Action, and the outcomes of its review conferences,
- having regard to the Information Series on Sexual and Reproductive Health and Rights of the UN High Commissioner for Human Rights (2020),
- having regard to the UN High Commissioner for Human Rights statement on “UN experts denounce further attacks against right to safe abortion and Supreme Court complicity” of September 14, 2021;
- having regard to the Constitution of the United States of America,
- having regard to *Wade vs Roe*, 410 U.S. 113 (1973), which establishes the U.S. constitutional right for pregnant women to decide whether to continue a pregnancy pre-viability,

- having regard to Senate Bill 8 (SB 8) and the associated House Bill 1515 (HB1515) in Texas “Relating to abortion, including abortions after detection of an unborn child's heartbeat; authorizing a private civil right of action” , in effect since September 1, 2021,
- having regard to the US Supreme Court decision of 1 September 2021 declining to block Texas law S.B.8. from going into effect,
- having regard to Articles 2 and 3 of the Treaty of the European Union (TEU),
- having regard to the European Convention on Human Rights of 1950,
- having regard to the joint communication from the Commission and the High Representative of the Union for Foreign Affairs and Security Policy of 25 November 2020 entitled ‘EU Gender Action Plan (GAP) III: an ambitious agenda for gender equality and women’s empowerment in EU external action’ (JOIN(2020)0017),
- having regard to Rule 144 of its Rules of Procedure,

- A. whereas the Texas Senate Bill 8, the so-called Heartbeat Bill, came into effect on September 1 2021, banning abortion after approximately six weeks of pregnancy; whereas the great majority of women and other menstruating persons are unaware of their pregnancy at this stage; whereas this is confirmed by the fact that around 85 to 90 percent of women and girls who obtain abortion care in Texas are at least six weeks into pregnancy; whereas the law will lead to a de facto end of the right to abortion in the state;
- B. whereas the S.B. 8 law is one of the strictest abortion measures in the US, banning abortions in the state after a foetal heartbeat is detectable with an exception only for medical emergencies but not for rape or incest;
- C. whereas the S.B. 8 incentivizes individuals to enforce the law by reporting and suing anyone who provides abortion services or assists someone to obtain abortion care in the state, with a potential monetary reward of \$10,000;
- D. whereas sexual and reproductive health and rights constitute an essential element of comprehensive healthcare provision and are grounded in fundamental human rights protected in International Human Rights Law, such as in the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights;
- E. whereas access to comprehensive SRHR, sexuality and relationship education and services, including family planning, contraceptive methods and safe and legal abortion, as well as every persons autonomy and ability to make free and independent decisions about their bodies and lives, are preconditions for their economic independence, achieving gender equality and eliminating gender-based violence; whereas it is their body, their choice;

- F. whereas the Committee on the Elimination of Discrimination Against Women has observed that criminalising abortion serves no deterrent value; whereas, as noted by the Working Group on discrimination against women, under legal restrictions on abortion, safe termination of pregnancy becomes a privilege of socioeconomically advantaged women, while women with limited resources are compelled to resort to unsafe and clandestine abortions at risk to their life and health; whereas S.B. 8 will disproportionately impact women in poverty, undocumented women and women from ethnic minorities and rural areas;
- G. whereas according to US Supreme Court precedent established in the landmark case *Roe v. Wade* almost 50 years ago, and affirmed in *Planned Parenthood v. Casey* and *Whole Woman's Health v. Hellerstedt* cases, women in the US have a constitutional right to decide whether to continue a pregnancy pre-viability;
- H. whereas Texas has already enacted 26 abortion restrictions in the past decade, including this year's six-week abortion ban and a ban on abortion that would go into effect if *Roe v. Wade* were overturned; whereas during this time, the number of abortion clinics in the state has been reduced from 46 in 2011 to only 21 clinics in 2017;
- I. whereas twelve other states have enacted bans on abortion early in pregnancy, but all have been blocked from entering into force by being declared unconstitutional by the Supreme Court;
- J. whereas The Center for Reproductive Rights and its partners filed an emergency request with the US Supreme Court on August 30 to block the law in Texas from entering into force; whereas the US Supreme Court ruled 5-4 against blocking the Texas law stating the challengers did not adequately address the "complex and novel antecedent procedural questions" in the case; whereas the Court also affirmed that its decision "cannot be understood as supporting the constitutionality of the law in question";
- K. whereas Florida has already duplicated the controversial law; whereas Republican leaders and anti-choice movements in as many as five other US states, namely North Dakota, Mississippi, Indiana, South Dakota, Arkansas, plan to introduce bills using as well the Texas law as a model since the US supreme Court let it stand;
- L. whereas gender equality, empowering all women and girls, ending poverty everywhere, ensuring healthy lives and promoting well-being for all at all ages are fundamental goals set out in SDGs 1, 2 and 5; whereas all UN member states have assumed duties and obligations to respect and promote these goals which are set out in SDGs, including the US; whereas SRHR are targets under UN SDG 3, and whereas gender-based violence and to eliminate all harmful practices against women is a target under SDG 5;
- M. whereas access to abortion constitutes a human right, while the delaying and denying thereof constitutes a form of gender-based violence; whereas access to abortion care everywhere is essential for social and economic equality; whereas several human rights bodies¹ have asserted that the denial of safe abortion may amount to torture or cruel,

¹ The Committee on the Elimination of Discrimination against Women, the Human Rights Committee, the Special Rapporteur on torture and other forms of cruel, inhuman and degrading treatment or punishment, and the Special

inhuman and degrading treatment, and unsafe abortions that lead to death in the context of abortion bans should be understood as “gender-arbitrary killings, only suffered by women, as a result of discrimination enshrined in law”;

- N. whereas prohibiting abortion and thus forcing women to seek unsafe abortions results in increased maternal mortality and morbidity; whereas an estimated 25 million unsafe abortions take place annually, causing 8% of maternal deaths; whereas almost all deaths from unsafe abortions occur in countries where abortion is severely restricted; whereas the annual number of deaths in Texas due to unsafe abortions is estimated to increase by 21% by the second year after the ban; whereas these deaths are entirely preventable;
 - O. whereas undocumented women and girls face additional barriers when seeking abortion services outside of the state of Texas, as they risk deportation upon leaving the state and at inland migration checkpoints;
 - P. whereas, according to the US Consensus Bureau, 18.3 million children, or 1 in 4, live without a biological, step, or adoptive father in their home; whereas the lack of responsibility of a high number of fathers for the care of their children remains to be addressed in Texas; whereas 41 million Texans live in poverty, including 20.9% of all Texan children, and 42% of Texan families in poverty are single-mother households;
 - Q. whereas among adolescent girls aged 15-19 years, pregnancy and childbirth complications are the leading cause of death globally; whereas the Committee on the Rights of the Child urges States to decriminalise abortion and ensure that girls have access to safe abortion services;
 - R. whereas teenage pregnancy exacerbates the cycle of poverty; whereas Texas is the seventh state with the highest teen birth rates in the US, and the state with the highest rate of repeat births among teens; whereas Hispanic and African American girls have particularly high rates of teen pregnancy, as well as girls with low education attainment, living in rural areas, in foster care, and those living in poverty; whereas teenage mothers are significantly more likely to discontinue their studies and face unemployment; whereas 65% of children born to young parents in Texas live in poverty, and are more likely to be in poor health and have low educational attainment;
 - S. whereas Texas is the state with most uninsured people in the US, with more than 4.3 million Texans, including 623,000 children, lacking health insurance; whereas access to healthcare is a human right and it is the obligation of the state to make it accessible to all;
1. Strongly condemns the adoption by Texas Legislature of the Texas Heartbeat Act, which de-facto totally bans abortion with no exception for rape or incest, and considers it unconstitutional and a strong attack on women’s freedom and sexual and reproductive health and rights, which are fundamental human rights; is deeply concerned about the extent to

rapporteur on extrajudicial, summary or arbitrary executions (Information Series on Sexual and Reproductive Health and Rights of the UN High Commissioner for Human Rights, 2020).

which this prohibition will contribute to the trauma of rape and incest victims;

2. Calls on the Government of the State of Texas to swiftly repeal S.B. 8, to provide safe, legal, free and good quality abortion services in the State, and to make them easily accessible to all women and girls, including undocumented migrants; calls on the Texan authorities to respect, fulfil and promote women's human rights to life, health and equality, as well as their freedom from discrimination, violence and torture or cruel, inhuman and degrading treatment;
3. Deeply regrets that the US Supreme Court, by a sharply divided split decision (4-5), declined to rule on blocking the introduction of that unprecedented law; recalls that this decision does not preclude on the constitutionality of the law ;
4. Deeply questions the moral context and is furthermore concerned about the design of this law which empowers any individual to sue anyone who may have helped women get an abortion, such as abortion providers or abortion care advocates, thus opening the floodgates to harassment and frivolous lawsuits from anti-abortion vigilantes and laying ground for a witch-hunt in the 21 century;
5. Is deeply concerned about the model effect of Texas law for other US states encouraged by the inaction of the US Supreme Court which has ignited new attempts to pass anti-choice legislation across the country, as it has been adopted already in Florida;
6. Underlines that the UN experts on the 14th of September have stressed that "women's human rights are fundamental rights that cannot be subordinated to cultural, religious or political considerations", and that "adding that the influence of ideologically and religiously motivated interference in public health matters has been particularly detrimental to the health and well-being of women and girls";
7. Underlines that guaranteeing the independence of the judiciary, including through adequate modalities for the appointment of judges, is crucial to protect fundamental rights and freedoms from reactionary political agendas;
8. Calls on the US Government to respect, fulfil and protect the human rights of women and girls; calls on the US Government to fully decriminalise access and provision of abortion services, and to establish federal legal protections for access to safe, legal, free and good quality abortion;
9. Calls on the US Government to remove all barriers to legal abortion services, including third party consent or notification, mandatory waiting periods, authorisation by judges or medical panels, and the requirement to travel long distances; calls on the US Government to ensure that the service is provided without discrimination, coercion, fear or intimidation, with due respect for women's privacy and confidentiality, and with due protection and respect for healthcare providers;
10. Highlights that only education, information, universal access to contraception, the eradication of sexual violence and the shared responsibility for contraception between women and men can reduce the number of unintended pregnancies; stresses that universal access to age-appropriate and evidence-based sexuality and relationship education, to a

range of high-quality, accessible, free and safe contraceptive methods and supplies, family planning counselling and information on contraception and guaranteeing of safe and legal abortion care should be prioritised;

11. Calls on the United States Government to finance, develop and promote male contraceptives;
12. Calls on the US Government to take the necessary measures to put an end to the cycle of poverty caused by pregnancy, including, among others, through free childcare, improved paid maternal and paternal leave, mandatory pay transparency requirements to address gender pay gap and adapted university programmes for parents;
13. Calls on the US Government to regulate refusals to provide lawful abortion services by healthcare providers, including on grounds of conscience, in a manner that does not deny access to abortion to women;
14. Calls on the US Government to ensure the participation of women and girls in the formulation of laws and policies that affect them and concern their human rights, including SRHR and abortion, and that they can access justice and remedies when their rights are violated;
15. Stresses that health is a human right, and that it is the obligation of the State to provide accessible healthcare to all; strongly condemns the fact that despite being the largest economy in the world, healthcare is not accessible to everyone in the US due to economic inequalities and system based on private insurances; recalls that poverty is closely linked to forced continuation of pregnancy and to lack of safe and legal abortion; in this light, calls on the US to develop a public and high-quality healthcare system for all, which will guarantee abortion services;
16. Welcomes the intention to restore the US funding to United Nations Populations Fund (UNFPA), the UN sexual and reproductive health agency; urges that this restoration be implemented without delay;
17. Welcomes the Women's Health and Protection Act (WHPA) federal legislation that aims at protecting the right to access abortion care throughout the US, which was recently passed by the US House of Representatives; calls on the US Congress to pass federal legal protection for access to abortion through this Act;
18. Calls on the US Government to sign and ratify all UN human rights conventions and protocols, including but not limited to the following: the Convention on the Elimination of All Forms of Discrimination against Women (1979), the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (1999), the American Convention on Human Rights (1969), the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social, and Cultural Rights (1988), the Protocol to the American Convention on Human Rights to Abolish the Death Penalty (1990), the First and the Second Optional Protocols Protocol to the International Covenant on Civil and Political Rights (1966 and 1989, respectively), International Covenant on Economic, Social and Cultural Rights (1966), the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2008), Optional Protocol to the Convention against

Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2002), Convention on the Rights of the Child (1989), the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (2011), International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990), the Convention Relating to the Status of Refugees (1951), International Convention for the Protection of all Persons from Enforced Disappearance (2006), Convention on the Rights of Persons with Disabilities (2006), Optional Protocol to the Convention on the Rights of Persons with Disabilities (2006);

19. Calls on the EU and its Member States urge the US Government to establish legal protection for access to abortion, to raise the human rights issue of access to abortion in their relations with the US at all levels and at all relevant international human rights fora;
20. Recalls that one of the five pillars of the EU Gender Action Plan (GAP) 2021–2025 of the EEAS is promoting SRHR; calls on the EU and its Member States to ensure human rights clauses, including the right to free and safe abortions, are respected and promoted in all international relations with the US;
21. Calls on the EU delegation in the US to monitor the situation on SRHR in Texas and other states and to prioritise SRHR in their implementation of GAP III; recalls that a total ban on abortion care or denial of abortion care is a form of gender-based violence;
22. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the EU Special Representative for Human Rights, US President Joe Biden and his administration, the US Congress and to the State of Texas.