

What Alito's draft gets wrong about women and political power

Research finds many ways that women, especially women of color, are excluded from equal access to power

Analysis by Rebecca J. Kreitzer and Candis Watts Smith
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A man secures a fence at the Supreme Court on May 5. (Jim Watson/AFP/Getty Images)

In the [leaked Supreme Court draft opinion](#) on *Dobbs v. Jackson Women's Health Organization*, Justice Samuel A. Alito Jr. writes that abortion is the purview of legislatures, not courts. He outlines a series of justifications to overturn *Roe v. Wade*, but this assertion stands out:

[W]omen on both sides of the abortion issue to seek to affect the legislative process by influencing public opinion, lobbying legislators, voting and running for office. ... [T]he percentage of women who register to vote and cast ballots is consistently higher than the

percentage of men who do so. In the last election in November 2020, women, who make up around 51.5% of the population of Mississippi, constituted 55.5% of the voters who cast ballots.

In other words, Alito emphasizes that abortion can be regulated through the democratic process — without considering the fact that [U.S. democracy is in decline](#).

Women are systematically excluded from wielding political power

Although women compose more than half of the U.S. population — 50.8 percent, according to the latest [census estimates](#) — they do not wield a proportionate amount of political power, especially at the state level. Women are excluded from political power in many ways. For instance, when they're very young, girls develop less [political ambition](#) than boys, while women are less likely to become political candidates because they have [disproportionate family caretaking obligations](#) compared with men.

When they do run for office, women's campaigns are more likely to be derailed by [negative attacks](#) and by rhetoric aimed at [disqualifying](#) them in voters' minds. Women also have a [harder time raising funds](#) than men do. Once in office, women in Congress [work harder](#) than their male colleagues yet are less successful in [getting their bills passed](#). In so many ways, what social scientists call "[hostile sexism](#)" — meaning attitudes that are antagonistic toward women and a belief that women want to control men — shapes American politics.

Political parties do not respond equally to all voters

When Alito asserts that "women are not without electoral or political power," he points to women's higher voting rate than men's in Mississippi's 2020 general election. But the evidence contradicts his assumptions. Grouping all women in Mississippi together ignores racial differences in which women and men get involved in the democratic system with the goal of shaping policy.

Mississippi has the highest proportion of Black citizens of any U.S. state; 76 percent of them identify [as Democrats](#). And yet the Republican Party controls the offices of the governor, lieutenant governor, secretary of state and attorney general as well as both chambers of the state legislature. The state has lately passed some of the nation's [toughest restrictions](#) on ballot access, including strict photo identification requirements and [limits on mail-in voting](#).

Republican control of state legislatures limits Black citizens' political power, but Democrats have been involved, too. Black women have been heralded as the "[backbone of the Democratic Party](#)" because they have reliably turned out for Democratic candidates at high rates. But Black women's loyalty has not been rewarded with influence over Democrats' policy agenda.

[As one voter told CNN](#), Democrats "take us for granted because they know that Black women are going to help them get the big wins they need, where it matters. But they also know that they can give us the bare minimum, knowing that we aren't going to choose the other side."

Democrats' strategy is to capture suburban voters at the expense of abortion rights

In pursuing moderate suburban White women in [swing districts](#), [some Democrats have argued](#) in favor of compromising on the issue of abortion rights. However, highly educated White voters strongly support abortion rights. Over decades, congressional Democratic leaders have declined to try to repeal the Hyde Amendment, which prohibits using Medicaid or any other federal funds to pay for abortions for low-income people. For the first time since the amendment passed in 1976, leading Democratic presidential candidates in the 2020 primaries called for the repeal of the amendment. But in budget negotiations this year, Democrats dropped the repeal effort.

President Biden only briefly mentioned abortion in his March [State of the Union address](#). The [Women's Health Protection Act](#), which would bolster the right to abortion, recently passed in the House and [could become law](#) if Senate Democrats vote to eliminate the anti-democratic [filibuster](#), something they were unable to do to pass the John Lewis Voting Rights Advancement Act over the opposition of Sens. Kyrsten Sinema (Ariz.) and Joe Manchin III (W.Va.). Together, these examples reveal a pattern of superficial support for reproductive justice.

With democracy in decline, women of color are losing out

Black women's organizations like [SisterSong](#), dedicated to reproductive justice, have long pointed out that women of color and low-income women face particularly challenging reproductive issues. Women of color are more likely to have [unintended pregnancies](#), in part because of higher poverty rates and less access to insurance, and are more likely to live in [contraception deserts](#) than their White counterparts.

Over the past few decades, legislators have [increasingly regulated](#) pregnancies and criminalized [miscarriage](#) and abortion. As a result, women of color are more likely to become tangled with the criminal legal system, arrested for such transgressions as [stillbirths, miscarriages and attempting suicide](#). Black and Hispanic women are far more likely to [seek abortions](#) but, because of policy and economic barriers, have had much less success in exercising the [right to abortion enshrined](#) in *Roe*.

In his draft decision, Alito argues that abortion is best left to legislatures. Should these sentiments make it into the final decision, the Supreme Court — the least democratic branch of government — would relegate the fundamental right to abortion to the statutory whims of ["democratically"](#) elected state legislative majorities.

And yet many of these same legislatures, including Mississippi's, are [gerrymandering districts](#) and passing laws making it [harder to vote](#) in ways made possible by the Supreme Court's 2013 decision in [Shelby County v. Holder](#), which struck down a key portion of the Voting Rights Act.

If the final draft of the *Dobbs* decision looks anything like what has been leaked, abortion care will cease to be a right and become instead a privilege accessible only to those who live in or can travel to a decreasing number of states. Racial disparities in reproductive health care will expand as lower-income people and people of color will become even less able to access what has been considered a fundamental right for the past five decades.

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