



Written by [Elad Hakim](#) on July 20, 2022

Are Democrats in Congress Trying to Usurp States' Rights in Their Quest for Power and Control?

In [The Federalist, No. 45](#), James Madison wrote, in part:

The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite.

Notwithstanding Madison's famous words, President Joe Biden and Democrats in Congress are trying to systematically invalidate and/or usurp some of the rights belonging to the individual states in their quest for unfettered power.



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According to the [Tenth Amendment](#) of the United States Constitution, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." In a nutshell, this provision helps to define the concept of federalism and aims to protect the states and to give them certain powers that are not reserved for the federal government.

Two relevant examples come to mind. First, with respect to elections, [Article I, Section 4, Clause 1](#) of the Constitution authorizes the individual states, not the federal government, to decide the time, place, and manner for holding elections. A second example involves the issue of abortion, which the Supreme Court recently held in [Dobbs v. Jackson Women's Health Organization](#) to be a state issue, not a federal one.

While these issues are clearly left to the states under the Constitution and/or Supreme Court precedent, Democrats continue to make efforts to federalize them. For example, Democrats previously proposed and tried to pass [H.R. 1](#) (the "For the People Act") and the [John Lewis Voting Rights Advancement Act](#), both of which sought to federalize the election process and to take away the power from the individual states. For the time being, these efforts have failed.

On the issue of abortion, and following the *Dobbs* decision, Biden [stated](#):

Let me be very clear and unambiguous: The only way we can secure a woman's right to choose and the balance that existed is for Congress to restore the protections of *Roe v. Wade* as federal law.

No executive action from the President can do that. And if Congress, as it appears, lacks the vote — votes to do that now, voters need to make their voices heard.

This fall, we must elect more senators and representatives who will codify a woman's right to choose into federal law once again, elect more state leaders to protect this right at the



local level.

Biden also issued an [executive order](#), a good discussion of which can be found [here](#).

Biden's push to codify a woman's right to choose seems to ignore/disregard the Supreme Court's ruling that the issue of abortion is a state one, not a federal one. As reported by the [Associated Press](#), and notwithstanding *Dobbs*, the House recently voted "to restore abortion rights nationwide in Democrats' first legislative response to the Supreme Court's landmark decision overturning *Roe v. Wade*." [AP](#) further noted:

This is the second time the House has passed the bill, which would expand on the protections *Roe* had previously provided by banning what supporters say are medically unnecessary restrictions that block access to safe and accessible abortions. It would prevent abortion bans earlier than 24 weeks, which is when fetal viability, the ability of a human fetus to survive outside the uterus, is generally thought to begin. It allows exceptions for abortions after fetal viability when a provider determines the life or health of the mother is at risk.

These bills all share one thing in common — a desire to strip rights away from the individual states and the people of those states by expanding federal power and control. The Democrats' proposed voting bills disregarded the constitutional provision allowing the individual states to determine the time, place, and manner for determining elections.

Moreover, the recent abortion bill(s) passed by the House seemingly disregarded the *Dobbs* decision by trying to federalize an issue that the Supreme Court clearly stated belonged to each individual state. For example, if a state decided to ban abortions after 15 weeks, the recent House bill (which has not yet been voted on by the Senate) could create potential legal obstacles involving but not limited to preemption and/or the state's police powers over public health and the practice of medicine.

At this point in time, there is no doubt that Biden and the Democrats in Congress want the federal government to control as much as possible, including the election process, the words and pronouns people use, personal health-related decisions, and education and what children are learning/taught in school, as well as the issue of abortion. In doing so, they are willing to trample on the rights of the individual states, if necessary, or to try to pass legislation that renders some of these rights meaningless.

All Americans, regardless of political affiliation, should oppose such efforts.



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