

## ABORTION SAVES A BEATING HEART: A CROSS-NATIONAL AGGREGATE ANALYSIS OF WOMEN'S HEALTH AND REPRODUCTIVE RIGHTS

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**Abstract** The 2022 US Supreme Court's *Dobbs v Jacksons Women Health Organization* decision placed abortion rights back into the center of US and global politics. At a time when across the world abortion rights were continuing to expand, the US appeared to be retrenching on it. *Dobbs* renewed the debate about abortion as a political or human right. But often overlooked in the discussion of the topic is how access to abortion is a medical and health issue. This Article examines abortion as a health care issue. It constructs a cross-national aggregate database looking at the relationship between more permissive abortion laws and the promotion of health. It finds that more permissive abortion laws nationally are correlated with better health care outcomes for women, pregnant mothers, and newborns. It also finds that more permissive abortion laws are associated with democracies and the percentage of women in national legislatures.

**Keywords**

health outcomes,  
cross-national,  
abortion,  
democracy,  
reproductive rights

## 1 Introduction

The 2022 *Dobbs vs. Jacksons Women's Health Organization* decision in which the US Supreme Court ruled that the US Constitution does not protect a right of women to terminate their pregnancy placed the topic of abortion and reproductive rights not only into the center of US politics, but as well as global politics. The decision was both expected and came as a surprise. Expected in the sense that for nearly fifty years since the decision of *Roe v. Wade*, social and religious conservatives have sought to overturn the Supreme Court's decision that constitutionalized a right to terminate a pregnancy.

Republican presidents starting with Ronald Reagan through Donald Trump appointed justices to the Supreme Court, often with the aim of overturning *Roe* (Ziegler, 2022). States as Texas, Alabama, Mississippi and others repeatedly passed laws evaluating the constitutionality of abortion restrictions (Bentele, Sager, & Aykanian, 2018). Thus, the *Dobbs* decision was the culmination of a fifty-year political and legal mobilization and therefore should not have come as a surprise.

But nonetheless, both domestically and globally, it made the United States as an outlier. The trend has been globally to secure women's political rights and expand reproductive and abortion rights (Singh, et al., 2018). The *Dobbs* decision politically, moves the United States in the opposite direction. It raised the question. If abortion is not secure in the United States, in was reputedly the most significant democracy in the world, where might it also be endangered?

Generally, when abortion is examined, the focus is on questions of politics (Erdman, 2016; Margolin, 2007; Zampas & Gher, 2008). It is about the autonomy and equality for women to be able to control their body and have bodily autonomy. But there is a duality to the abortion issue. While reproductive rights are generally seen as political issues one can also argue that reproductive rights can be considered public or individual health issues (Manian, 2014; Smyth & Lane, 2016).

This article examines abortion rights as health care policy more specifically as a health care issue. There is a saying among abortion opponents in the United States that abortion kills a beating heart. The reference is to the idea that termination of a pregnancy ends the life of a fetus, and with that ends what is arguably a beating heart.

This article makes a different argument. It contends that abortion may well save a beating heart. That is, countries that respect abortion rights may further and promote maternal and infant health.

To make this argument this article will first summarize the status of abortion rights in both the United States and globally as it has evolved over approximately the last half century. It then examines abortion very specifically as a health issue. It does so by building upon an existing cross national aggregate database that examines the relationship between abortion laws or policies and the health of women, mothers, and infants. This database and the analysis that will be done will seek to determine if countries or states with more permissive abortion laws are better at promoting mothers', women's, and infant health than those states that are more restrictive. The argument will be that based upon the data, abortion does in fact, promote public health and save beating hearts.

## **2 Reproductive Rights in the United States**

The US Constitution dates from 1787 and its Bill of Rights from 1791. Nowhere in either of these documents is there any language regarding reproductive rights or abortion. They are both explicitly silent on the topic. Moreover, if one were to look at individual state law in the United States, it is not until the mid-nineteenth century that they address abortion (Reagan, 2022). Until this point there are no laws banning or regulating abortion. But then this is when the American Medical Association, in seeking to both develop market exclusivity over medical care and to try to eliminate unsafe health practices, states across the country started to legislate against abortion (Fortin, 2023).

By the late nineteenth century abortion in most if not all cases, was illegal. Moreover, during the late nineteenth and early twentieth centuries the use of birth control was also deemed illegal. Margaret Sanger and others who sought to distribute information educating women about birth control are often prosecuted under federal laws including the Comstock Act (Weingarten, 2010; Kennedy, 1970).

In general, one could argue that as part of their second-class status in America women were denied reproductive rights including the right to terminate their pregnancies. In the famous case of *Buck v. Bell* (1927) the US Supreme Court ruled

that a forced sterilization law for women who were deemed to be incompetent was constitutional. In that case, Carrie Buck was deemed to be incompetent by the state of Virginia and pursuant to its laws was to be sterilized against her will. She challenged the law. When the case reached the Supreme Court, the facts indicated that her mother had also been deemed incompetent and Carrie Buck also had a child, and there were worries she too would produce more children who might be deemed incompetent. In upholding the statute Justice Oliver Wendell Holmes stated that “three generations of imbeciles are enough” and concluded that the state had more than enough reason to force Carrie Buck to be sterilized.

Fifteen years later, in *Skinner v. Oklahoma* (1942), at issue was an Oklahoma statute requiring the forced sterilization of men convicted of sex crimes. The US Supreme Court struck the law down as unconstitutional. In so doing the court ruled that the right to reproduce was a fundamental right, protected under the Constitution, specifically the Fourteenth Amendment’s Due Process Clause.

Between *Buck v. Bell* and *Skinner v. Oklahoma*, we see a Supreme Court ruling that while women do not have a right to reproduce, men do. Nonetheless *Skinner* is an important case because it begins to establish a right to reproductive autonomy.

Beginning in the 1960s the US became part of a global wave of liberalization of abortion policies and reproductive rights. Many countries were legalizing abortion, and within the US, individual states were overturning or repealing their abortion or contraception laws (Garrow, 1998). Among the most important US cases was *Griswold v. Connecticut* (1965).

In 1965 the US Supreme Court decided *Griswold*. At issue in the case was a Connecticut law that made it illegal for married couples to use birth control and for doctors to prescribe the use of birth control. In striking down the law, the US Supreme Court first argued that, even though the Constitution did not explicitly describe a right to privacy, nonetheless, a right to privacy could be inferred or could be constructed out of what the court called the various “penumbras” of several amendments to the Constitution, specifically, the First, Third, Fourth, Fifth and Ninth amendments.

Griswold first establishes the concept that a right to privacy does exist. It then building upon *Skinner* argues that this right to privacy also includes the right for married couples to be able to use birth control. *Griswold* is a foundational case for creating the concept of a right to privacy. It then became the basis for extending that right to privacy, subsequently in *Eisenstadt v Baird* (1972) where the court argued that unmarried couples have a right to be able to use birth control, and then eventually in *Carey v. Population Services International* (1977) where the Court held that minors have a right to be able to use birth control. However, these three cases dealt with the issue of a birth control per se, and not with the question of abortion.

The major case on abortion in the United States is *Roe v. Wade* (1973). At issue in this case, was a Texas law that had banned abortion in just about all situations. The US Supreme Court overturned the Texas law arguing that the concept of a right to privacy included within it the right of a woman to terminate a pregnancy. In reaching a decision the court first rejected the claims by the state of Texas that it had an interest in protecting fetal health, and therefore in banning abortion. The Court ruled that a fetus did not qualify as a constitutional person, and therefore the state did not have an interest in fetal health. However, what the court did say is that while overall across all three trimesters of a woman's pregnancy, a woman had an unequivocal right to terminate her pregnancy. But as one proceeded into a pregnancy into the second and more importantly, third trimesters, the state might have some interest in being able to regulate some of the terms and conditions of the pregnancy, but not an outright banning it. *Roe* invalidated abortion laws across the United States, with estimates being that it impacted laws in every state in America (Linton, 2012).

*Roe v Wade* turned out to be a very controversial decision. Some argue that this is what split the Democratic Party in the United States where individuals who were opposed to abortion, or what's called pro-life, eventually moved away from the Democratic Party, as that party embraced abortion rights. While at the same time the Republican Party came into opposition to abortion rights (Ziegler, 2014) Republican presidents continuously came out in opposition to it, calling for the Supreme Court to reverse that decision. They declared that they would appoint justices to the Supreme Court who would overturn *Roe vs. Wade* if given the chance (Daynes & Tatalovich, 1992).

From 1973 until 1991 many states sought to legislate and regulate abortion, finding ways to test or challenge the central holding of *Roe* (Bentele, Sager, & Aykanian, 2018). By 1991 Republican presidents, including Ronald Reagan, and George H.W. Bush, had appointed enough justices to where it appeared that *Roe* was in danger. Yet, in *Planned Parenthood v. Casey* (1991) the Supreme Court upheld the central holding of *Roe* in an opinion written by Sandra Day O'Connor, Anthony Kennedy and David Souter, all appointed by Republicans. They argued that *Roe* should be considered settled law and that an entire generation of women have come of age expecting to be able to control their reproductive future and therefore had a reliance interest in that decision being upheld.

Yet *Casey* upheld *Roe* but with a modification. Eventually the modification was that abortion regulations were permissible unless they imposed an undue burden upon a woman seeking to terminate a pregnancy. Between *Roe* and *Casey* women appeared to have a basic fundamental right for abortion. But nonetheless, the issue is still not settled and through the George Bush and then the Donald Trump administrations, several more justices were appointed whose total eventually became six Republican appointed ones. In 2022 in *Dobbs v. Jackson vs. Women's Health Organization*, the US Supreme Court did what many thought was going to be impossible or unexpected. It overturned *Roe* and *Casey*.

In writing for the Court, Justice Alito argued that while a right to privacy did exist in the Constitution, that right to privacy did not include a right to terminate a pregnancy. The court argued that a right to an abortion could not be found in the Constitution, because it was not part of a long-standing set of practices protected under the Due Process clause of the Fourteenth Amendment. Alito in the majority, went on to argue that while a right to privacy did not include a right to terminate a pregnancy, it still nonetheless protected the right to use birth control. However, in concurrence, Justice Thomas argued that by the logic of *Dobbs* perhaps the Court needed to revisit even this right to use birth control. As a result of *Dobbs*, the constitutionally protected right of women to terminate a pregnancy ended and it freed up the individual fifty states as well as the United States government. To regulate or ban abortion.

### 3 Abortion Rights in a Global Context

#### 3.1 Global Trends

Because abortion was a dangerous us procedure to perform, it was generally illegal across the world in the nineteenth century (Berer, 2017). When *Roe* and *Casey* were decided, the US was part of a global expansion of reproductive and abortion rights across the world. For example, countries such as the United Kingdom in 1967, Canada 1969, Denmark, 1973, Sweden 1975, Italy 1978, and Ireland in 2018, were among the many countries in the world that had expanded the rights of abortion. (Boyle, Kim, & Longhofer, 2015). These other western democracies were expanding abortion rights or access during the same time that the United States was doing that

In addition, the communist states, especially those that were part of the USSR beginning in 1920, had also protected or expanded access to abortion (Berer, 2017). For example, as part of the Soviet Union, Ukraine in 1955 moved to legalize abortion. Overall, as a matter of domestic policy or law, legal abortion access improved dramatically from the 1950s. In part this might have reflected expansion of women's right and political mobilization, but also from a medical perspective abortion simply became a safer medical procedure during this time period (Paintin, 1998). There were a few countries such as Nicaragua that retrenched on abortion rights, but the *Dobbs* opinion placed the US in an outlier position regarding global abortion rights. At a time of the expansion of such rights, the United States appeared to be retrenching.

The impact of the decision was drastically. It led to significant political mobilization that impacted the 2022 US congressional midterm elections, helping Democrats retain the Senate and almost hold the US House of Representatives (Jacobson, 2023). It also produced several state constitutional amendments and legislation across the United States where states sought to legally protect abortion (Dinan, 2023). At the same time many states used the *Dobbs* opinion as an effort to restrict it even more.

Globally. The reaction to *Dobbs* was also significant. On March 4, 2024, France became the first country in the world to enshrine abortion rights in its Constitution. Article 34 of the French constitution declared a woman has “a guaranteed freedom to have recourse to an abortion.”

When we look at *Roe*, *Casey*, *Dobbs* and the French constitution, the topic of abortion generally is seen as more of a political or illegal right. It is seen as a protection for the bodily integrity or autonomy of women. Yet when we look internationally in terms of treaties and conventions, abortion does not have the political or legal protections that one may think.

#### 4 International Law

Since the 1960s reproductive rights have increasingly come to be seen as an important human right (Pizzarossa, 2018). Various human rights groups or agencies such as the Human Rights Committee, the Committee on the Elimination of Discrimination against Women, the Committee on Economic, Social and Political Rights, the Working Group on discrimination against women in law and practice, the Inter-American Court of Human Rights, the European Court of Human Rights, and the African Commission on Human and Peoples' Rights have all called for the decriminalization of abortion (Berer, 2017). However, there is no conventional or customary international law that recognizes abortion as a human right (Erdman, 2016).

The European Convention on Human Rights does not explicitly refer to the concept of reproductive health or reproductive rights. Article VIII offers protection for human autonomy and family life. But it does not give women an unlimited or any right to abortion. At the same time, this protection for bodily autonomy must be balanced against the Article II of the European Convention of Human Rights respect for human life.

The Convention on the elimination of All Forms of Discrimination Against Women, specifically, Article XII, states that a party to the convention "shall take all appropriate measures to eliminate discrimination, discrimination against women in the field of health care, in order to ensure, on the basis of equality of men and women, access to health care services, including those related to family planning." Again, the Convention does not explicitly refer to a right to terminate a pregnancy.

Across the world, there is no specific treaty or guarantee for abortion rights. Even though one could make the argument that access to abortion as a form of family planning are important human rights for women. Abortion remains controversial in



some places such as Poland and in parts of Africa for religious or other reasons, making it hard to achieve an international law consensus in favor of recognizing it as a right (Erdman, 2016).

## **5 Abortion as a Health Care Issue**

*Roe, Casey*, and the French constitution all place an emphasis upon abortion as being a political right. But abortion and reproductive rights can also be viewed as a healthcare issue, independent of any legal or political issues. Often in the United States, abortion is associated with sexual or political freedom or viewed as a moral issue intertwined with sexual activity. But is also often discounted or ignored in terms of its important role for healthcare and just for reproductive health (Smyth & Lane, 2016; Marecek, Macleod, & Hoggart, 2017; Manian, 2014).

What do we know about abortion when it comes to protecting human life? Does access to abortion have an impact on health, specifically for women or pregnant mothers? While some research has asserted that abortion is a threat to women's health, what do we know about how national laws governing access to abortion relate to health care outcomes? Do more permissive abortion laws inhibit or promote health for women or their newborns? This is the focus of the research in this article.

## **6 Methodology**

This article examines abortion as a health care issue. More specifically, what it looks at is whether there is any relationship between a country's abortion laws and basic health care outcomes for women and infants. The hypothesis is that as a country's abortion laws become more permissive health care outcomes would be better for women and for infants. Thus a series of testable research hypotheses were our setup for this study.

Among standard measurements for health care outcomes for a country are to look at the life expectancy for women, maternal deaths, infant mortality, and low infant weight at birth. These are considered to be generally accepted measurements for determining health. (Johnson, Stoskopf & Shi, 2008). This study uses these as measures. Additionally, there might be reason to think that there is some relationship

between democracy and the percentage of women in national legislatures and permissiveness of national abortion laws. It could be that democracies are more likely to support women's health initiatives, or that more women in a national legislature mean more support for women's health. Conversely, if abortion does promote women's health, healthier women are perhaps more likely to serve in office or participate in generally, thereby strengthening democracy in a country. Thus, these two variables perhaps as indirect measures of women's health.

In previous research, this author already constructed a cross-national aggregate database with these variables (Schultz, 2022). Life expectancy was drawn from World Health Organization (2019) data, maternal deaths from the World Bank (2019) as well as infant mortality and low infant weight. The democracy ranking drawn from Freedom House (2022) and the percentage of women and national legislatures drawn from the World Bank (2023). All of these are the dependent variables.

The independent variable is permissiveness of abortion laws. The Center for Reproductive Rights in 2023 did a ranking of state abortion rights laws or access to abortions across the world. It ranked them on a scale of one to five, one being the least restrictive in terms of abortion laws, the five being more the most restrictive. Phrased another way, on a scale of one to five, a ranking of one meant that women had more opportunities or there were less barriers for them terminating a pregnancy. A five meant significant barriers if not an outright ban on abortion.

The Center for Reproductive Rights ranking or scaling was placed in an Excel spreadsheet along with the dependent variables. Thus, there was a merger of databases from several sources to create a metadata base. In constructing such a database. Sometimes data from some countries is missing and therefore, one cannot make a computation. To the best of the ability, this database that was constructed for this article was cleaned up so that there were minimal missing values across the different variables. The methodology employed using just basic correlation analysis. By that a country's ranking on abortion would be correlated with some of the other dependent variables.

As is generally the case with correlation analysis, a minus one value would indicate an inverse relationship. A zero no relationship, a one a positive relationship. All of this is pretty standard in terms of looking at correlation analysis. In terms of standard

correlation measures, there's a rule of thumb that if the relationship is less than .2, there is a slight or no relationship. From 0.2-0.5 a low but definite relationship. From 0.4-0.7, there is moderate to a substantial relationship. From .6 to .9, a high relationship, and greater than 0.8 a very high relationship. It should again be noted that correlation does not imply causation, but merely indicates relationships between variables.

Thus, for this study there are six testable hypotheses.

H<sub>1</sub> There is no relationship between a state's degree of legal access to abortion and life expectancy of women.

H<sub>2</sub> There is no relationship between a state's degree of legal access to abortion and maternal deaths during childbirth.

H<sub>3</sub> There is no relationship between a state's degree of legal access to abortion and infant mortality at birth.

H<sub>4</sub> There is no relationship between a state's degree of legal access to abortion and infant low birth weight.

H<sub>5</sub> There is no relationship between a state's degree of legal access to abortion and how democratic a state is.

H<sub>6</sub> There is no relationship between a state's degree of legal access to abortion and the percentage of women in its national legislature.

## **7 Results**

What were the results?

First, in looking at the relationship between the life expectancy of women and permissiveness of abortion laws, the  $R = -0.355$ . There is a low but definite inverse relationship between female life expectancy in more restrictive abortion laws. Phrased Conversely, in countries with more permissive abortion laws, generally women have a longer life expectancy.

Second, looking at maternal deaths during childbirth as a number per 100,000, the  $R= 0.370$ . There is a low but definite relationship between countries having more restrictive abortion laws and increases in maternal death at childbirth. Again, phrase conversely, in countries with more permissive abortion laws, there is a lower maternal death rate during birth.

Third, infant mortality infant mortality referrals to children who die at birth. Here  $R= 0.385$ . There is a moderate to substantial relationship that shows that as abortion laws become more restrictive there is an increase in infant mortality.

Fourth, the correlation between low birth rate and restrictions on abortion,  $R= 0.486$ . There was a moderate to substantial relationship such that as abortion laws become more restrictive, there is an increase in low birth weights.

Fifth, when correlating how democratic a country is with its legal access to abortion,  $R= 0.204$ . There is a slight to low relationship. There is some indication that there is some relationship between being a democracy and having more restrictive abortion laws, although it is a very low relationship.

Finally looking at the relationship between the percentage of women in national legislatures and legal access to abortion,  $R= - 0.26$ , demonstrating a slight to load negative relationship. Generally, as there are more women serving a national legislature there is a slight relationship with there being less restrictive abortion laws.

## 8 Conclusion

What do all the results mean? Generally, in countries that have more permissive abortion laws, or make it easier for women to terminate pregnancies, there are better health care outcomes for women, mothers, and infants. There's some evidence that democracies and representation of women in the national legislature are also associated with the liberalization of abortion laws. But for the latter two variables, this is not a solid relationship. Many of the former communist countries or post-Soviet countries had fairly permissive abortion laws that carry over into even today, with many of those countries still ranking low on democracy. While it does appear there is some evidence that more women in legislatures more democracy means

greater access to abortion again, the relationship is very slight. For all six of the hypotheses, there is evidence to reject all of them.

It may come as no surprise then that protection of reproductive rights, in this case abortion, supports better health care outcomes and generally saves lives for mothers and for newborns and infants. To return to the title of this article, abortion does appear to save a beating heart.

This article does not get into the discussion of whether a fetus is a person or has any rights. It solely focuses on health care outcomes for women, pregnant mothers, and newborns. Based upon the preliminary analysis here, more restrictive abortion laws are associated with worse health care outcomes and more permissive abortion laws, generally with better health care outcomes.

International law does not explicitly guarantee reproductive rights or a right to abortion. Many of the conventions address rights to health care or access to health care. While this article has not addressed abortion as a political right, and instead as a health care issue, one can nonetheless argue that abortion may be not just important for health care, but it is an important political right linked to a right to health care, and perhaps also should be linked to rights for bodily autonomy and personal freedom. Moreover, while the focus in this Article has been on abortion as a health care issue, promoting women's health arguably enables the freedom for women to get politically engaged. Thus, there may be two-way relationships between the expansion of abortion rights, democracy, and the percentage of women in national legislatures.

More research needs to be done to explain these basic correlations and results that were found here. It could be that democracies alone produce better health care outcomes or have policies that produce better health care outcomes and therefore explain some of these issues. We could be looking at how many of the democracies especially in Europe and North America are associated with higher income countries which can afford better health care for its population. These and other factors could explain some of the results. But nonetheless, the evidence suggests that protection of abortion rights enhances health care and health for women, newborns, and infants.

## Note

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### Povzetek v slovenskem jeziku

Leta 2022 je odločitev Vrhovnega sodišča ZDA v zadevi Dobbs proti Jacksons Women Health Organization pravico do splava ponovno postavila v središče ameriške in svetovne politike. V času, ko so se pravice do splava po vsem svetu še naprej širile, se je zdelo, da jih ZDA omejujejo. Zadeva Dobbs je obnovila razpravo o splavu kot politični ali človekovi pravici. Toda v razpravi o tej temi je pogosto spregledano, da je dostop do splava medicinsko in zdravstveno vprašanje. V članku je splav obravnavan kot vprašanje zdravstvenega varstva. Oblikuje meddržavno zbirno bazo podatkov, ki preučuje povezavo med bolj permissivnimi zakoni o splavu in spodbujanjem zdravja. Ugotavlja, da so bolj permissivni zakoni o splavu na nacionalni ravni povezani z boljšimi rezultati zdravstvenega varstva žensk, nosečnic in novorojenčkov. Ugotavlja tudi, da so bolj permissivni zakoni o splavu povezani z demokracijo in deležem žensk v nacionalnih zakonodajnih organih.

