



The Global Impact of the Dobbs Decision on Abortion Laws, Policies, Legislation, Narratives, and Movements: *Findings from Colombia, India, Kenya, and Nigeria*

Preliminary Findings
June 2023

| THE RESEARCH

Fòs Feminista and our partners conducted nearly 70 interviews about the impact of *Dobbs v. Jackson Women's Health Organization* – the United States Supreme Court ruling that overturned *Roe v. Wade*, which guaranteed a constitutional right to abortion – with government officials, abortion service providers, sexual and reproductive health and rights and justice (SRHRJ) civil society representatives, academics, journalists, researchers, philanthropy actors, and anti-rights actors

working across Colombia, India, Kenya, and Nigeria between March and April 2023. The research aim was to document the impact of *Dobbs* on abortion laws, policies, and narratives, and movements in the four research countries. Complete findings will be released in a full report in late 2023. Additionally, we conducted a global media search using Google News and Muck Rack for publications focused on *Dobbs* published between May 2022 and March 2023 in English, Hindi, and Spanish.

| IMPACT ON LAWS, POLICIES, AND LEGISLATION

- In May 2022, The High Court in Malindi, Kenya affirmed abortion as a fundamental right under the Constitution of Kenya. Judge Nyakundi, writing for the court, drew from various international laws on abortion, including *Roe v. Wade*. Following the *Dobbs* decision, opposition groups seized the opportunity to claim he had relied on 'bad law'. They successfully persuaded the Court of Appeal to agree to the application to stay implementation of the *Malindi* law and policy directions.
- In Kisumu County, Kenya interviewees revealed that policy makers were considering removing unsafe abortion from the list of key causes of maternal mortality. They debated whether the current moment called for a focus on promoting safe abortion, or if now was a time to emulate the United States (U.S.) and instead try to block access to abortion.
 - One respondent described the anti-abortion movement in Kenya responding to *Dobbs* by saying: 'The excitement was that if the U.S. has been able to overturn *Roe v. Wade*, it will be easy for us to act in Kenya... It should be a walk in the park for us.'
- In Nigeria, *Dobbs* was utilized in arguments against the domestication of the Safe Termination of Pregnancy for Legal Indications Guidelines in Lagos State. Respondents saw *Dobbs* and anti-guidelines mobilization as linked. The Guidelines were launched in Lagos State on 9 July 2022. Shortly after their launch, anti-abortion actors mobilized against the Guidelines, citing *Dobbs* as justification. Due to pressure from the anti-abortion actors, the Lagos State government directed the suspension of the guidelines on the 18th July, merely nine days after the launch.
- During a hearing on same-sex marriage in India's Supreme Court, Solicitor General Tushar Mehta referenced the *Dobbs* decision to argue against same-sex marriage, suggesting the decision should be left to Parliament, similar to how the *Dobbs* decision returned the issue of abortion to the states. Chief Justice Dhananjaya Yeshwant Chandrachud rebuked the citation, responding "But don't cite *Dobbs*. Because, we have gone far beyond the *Dobbs* here. And, fortunately so. We can give credit to ourselves that we are far ahead of western countries"

- Interviewees across Colombia, Kenya, and Nigeria reported that *Dobbs* decision built upon a recent foundation of anti-abortion mobilization that originated from the U.S. through the implementation of the Global Gag Rule.
- Interviewees expressed concern about the potential impact of the *Dobbs* decision on funding for sexual and reproductive health and rights, expressing concern that the decision might impact what organizations can do or say on abortion like the Global Gag Rule did.
- In Kenya, respondents noted that there had been no effort to explain how *Dobbs* would impact U.S. funding.
- In Kenya and Nigeria, policy makers also had concerns and began self-censoring from the inclusion of the provision of safe abortion in line with national law in policy and practice in anticipation of the Global Gag Rule coming back into place because of the *Dobbs* decision.
- It was reported that the Global Gag Rule strengthened anti-rights groups in Kenya and Nigeria and destabilized women's rights movements in Colombia, Kenya, and Nigeria, with consequent trajectories having implications for how *Dobbs* affected both sets of actors.

| IMPACT ON NARRATIVES

- Anti-rights actors use anti-colonial messaging to argue that abortion, lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI) rights, assisted reproductive technology, and/or comprehensive sexuality education are foreign influences intended to undermine morals, culture, and populations as part of neo-colonial agenda. Concurrently, anti-abortion networks also highlight the rollback of abortion rights in the U.S. as desired paths to follow.
- For example, The Lagos Guidelines highlighted how anti-rights actors selectively adopted an anti-imperialist stance, utilizing the political, economic, and cultural influence of the U.S. and emphasizing the importance of preserving 'African values' when it aligned with their agenda. People perceived the U.S. (and European countries) as global leaders whose path should be followed for achieving development success, while simultaneously harboring resentment toward colonization, natural resource extraction, and continued power imbalances. This dissonance created an opportunity for anti-rights actors to advocate for aligning with the U.S. on abortion following the *Dobbs* decision, while arguing for a divergent approach when it comes to LGBTQI rights.
- Influential people across all four countries made statements on the need to follow the U.S. example in the *Dobbs* decision.
 - In Kenya, Moses Wetangula, then Senator, now Speaker of the National Assembly, tweeted, "This is a judicial milestone that restores the dignity and respect for human life including that of the defenseless unborn child."
 - In Nigeria, Emmanuel Badejo, the Catholic Bishop of Oyo, stated, "The striking down of the 50-year-old 'Roe and Wade' [sic] in the U.S. of America has energized the pro-life movement all over the world. More importantly, it has reversed a grave institutionalized injustice and crime against humanity."

- In countries with a more favorable abortion policy, *Dobbs* was less impactful and provided SRHRJ advocates opportunities to talk about abortion and express nationalist pride
 - In India, some respondents discussed expressions of nationalist pride, comparing the progressive MTP Act amendments to the regressive steps in the *Dobbs* decision. One respondent

described the discourse as “more of a gloating nationalism, that we’re better than the U.S.”

- Colombian respondents expressed pride in recent gains and said that strengthening the feminist movement in this region was a promising strategy to counteract the “backlash” against SRHRJ worldwide.

| IMPACT ON MOVEMENTS

- The anti-rights movement is emboldened by the *Dobbs* decision, leveraging the decision to further their movement. In general, the anti-rights movement uses similar strategies across countries including strategic litigation; creating a chilling effect for providers through criminalization, intimidation; and grooming young people into the anti-rights ideology.
 - Anti-abortion actors deepened campaigns of misinformation and reinforced anti-abortion narratives and ideology, using *Dobbs* as evidence to support their positions.
 - In Colombia, anti-abortion organizations initially felt defeated after the Constitutional Court's decision to liberalize abortion. However, the overturning of *Roe v. Wade* rejuvenated their efforts to reignite the abortion debate. They continued disseminating misinformation, drawing references from the U.S. and capitalizing on media confusion.
 - In India, shortly after the *Dobbs* decision, the first March for Life took place around the 51st anniversary of the Medical Termination of Pregnancy Act (MTP) of 1971. The press release for the march quoted a spokesperson from Right to Life UK, stating, “It is an exciting

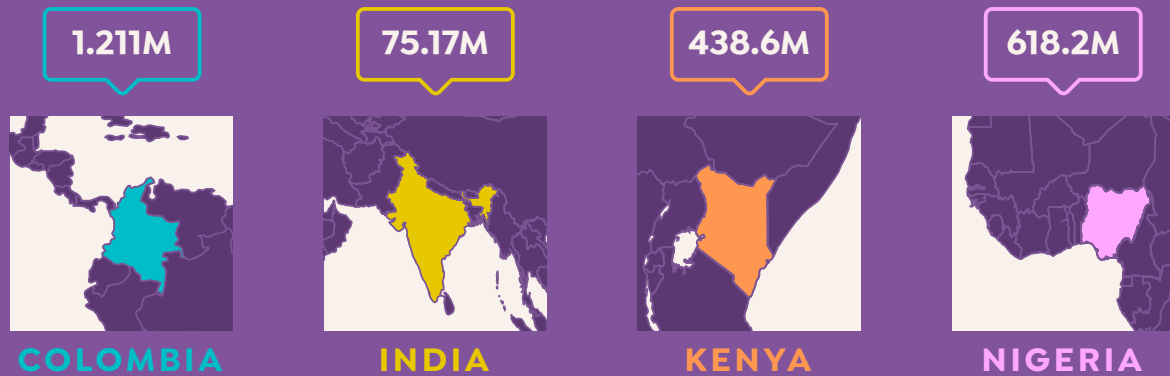
time for the pro-life movement. As we’re seeing, the end of *Roe v. Wade* presents an opportunity and a cause for hope – because it demonstrates to countries like India that such unjust laws can be overturned.”

- The *Dobbs* decision provided SRHRJ advocates opportunities to talk about abortion and raise awareness of national law and its drawbacks.
 - In India, there are high levels of misinformation about abortion legality and the amendments to the MTP Act. Interviewees considered it positive to be able to educate people on the new law via newspapers, radio stations, television, social media, and in community discussions.
 - Interviewees in Colombia noted that the *Dobbs* decision served as a stark reminder to the feminist movement in Colombia of the ongoing importance of continued and sustained abortion advocacy. They emphasized the need to educate and raise awareness with the public regarding the significance of the Court ruling as a crucial milestone that must be protected.

- o In Colombia they also saw Dobbs as an opportunity for the feminist movement to create spaces for cross-regional exchange. Many interviewees thought the Latin American and Caribbean

experience, including in Colombia, could significantly help others worldwide and could continue fostering changes in dynamics, helping to localize funding and decolonize the sector.

FY22 GLOBAL HEALTH OBLIGATION FROM THE US GOVERNMENT



Source: Foreignassistance.gov

- Interviewees expressed concerns regarding the potential decline in funding and support for international sexual and reproductive health and rights initiatives. They highlighted that private and governmental donors in the U.S., as well as in other countries where right-wing political victories have occurred, may shift their focus inward to counteract anti-rights movements within their own nations.
- o One respondent shared that their organization had already experienced this shift, as efforts were redirected towards supporting U.S. reproductive justice movements and addressing pressing demands due to the overturn of *Roe v. Wade*.
- o Colombia, Kenya, and Nigeria, respondents believed *Dobbs* would affect U.S. funding, similarly to the Global Gag Rule.
- These funding concerns were even more acute for local and grassroots organizations, which already faced constraints resulting from the Global Gag Rule and now feared new cuts after *Roe v. Wade* was overturned.
- However, interviewees in India noted a lesser influence of both U.S. funding and transnational anti-rights networks. As a result, even when NGOs with U.S. funding subject to the Global Gag Rule worked on health programs, government officials were able to fill the gaps: “[For example] if USAID was giving money to an organization working with the state implementing a nurse midwifery component, they wouldn’t talk about abortion... but the state technical people are there to oversee and they have no restrictions [so would make sure it was included].”
- Concurrently, interviews expressed concern that continued mobilizations by anti-rights groups may worsen the atmosphere around abortion and SRHRJ, leading bilateral donors to move away from funding movements, social justice or systemic change initiatives (which is needed for inclusive vibrant societies and to further democracy and good governance) and place more emphasis on "visible projects" like infrastructure and social facilities. This concern was particularly

relevant considering the ongoing struggle for influence on the African continent, with China, Russia, European countries, and the U.S. competing for leverage.

- Interviewees noted that the *Dobbs* decision might increase anti-rights actors' ability to mobilize funding, especially from individual donors and networks from the U.S., bolstering their influence and power.

| RECOMMENDATIONS

UNITED STATES GOVERNMENT

- The White House should develop an executive action that comprehensively explains the *Dobbs* decision, particularly the fact that *Dobbs* has no impact on U.S. foreign assistance, affirms the Biden administration's support for SRHRJ, including abortion services, and directs U.S. implementing agencies to properly communicate the *Dobbs* decision as well as encourage Congress to monitor the communication.
- Increase global funding for SRHR in the President's budget, including support for organizations that lost funding because of the Global Gag Rule.
- Permanently repeal the Global Gag Rule through legislative action to end recent and further confusion between the Global Gag Rule and *Dobbs*.

GOVERNMENT OF COLOMBIA

- Implement strategies to disseminate information to the general public on the implications of the ruling to combat misinformation, remove barriers to access, and fight social stigma.
- Educate service providers on the legal and technical implications of the ruling, as well as the latest technical regulations and best practices for conducting the proceedings safely.
- Express a clear position of support for the ruling and strengthen the political capital that supports it.

GOVERNMENT OF INDIA

- Create awareness about latest amendment to the MTP Act and abortion service provision - abortion as a healthcare service, abortion service provider obligations and abortion seekers' entitlements.
- Ensure availability of services as envisaged under amended law.
- Revise MTP Act language to go beyond gender binaries.
- Decriminalize abortion.
- Protection of Children from Sexual Offences Act 2012 (POCSO) and National Adolescent Health Programme (RKSK), Protection of Children from Sexual Offences Act 2012 (POCSO) and MTP Act need to be aligned - in terms of mandated quality (that includes confidentiality) services under RKSK and MTP Act and mandatory reporting under POCSO.

GOVERNMENT OF KENYA

- Reinstate the Standard and Guidelines for reducing maternal mortality and morbidity from unsafe abortion in Kenya.
- Review of the Reproductive Health Policy (2022 - 2032) to include access to safe abortion as envisaged in the Kenyan constitution article 26(4).
- Ensure that Health Service providers are not harassed and arrested in the course of providing Safe abortion services.
- Reproductive Health financing should include commodities for reducing unsafe abortion.

GOVERNMENT OF NIGERIA

- Reinstatement of the Lagos State Guideline for Safe Termination of Pregnancy on Legal Indication and adoption of the guideline in other states in Nigeria.
- Strengthen capacities of health providers to use the guidelines in the provision of safe and legal abortion, including providing abortion values clarification and attitude transformation workshops.
- Expand ground for accessing safe abortion to include rape and incest.

GLOBAL DONORS (governments, multilateral, bilaterals, and philanthropists)

- Increase funding for feminist initiatives driving narrative change to support SRHRJ, recognizing the influence of public narratives on policy.
- Increase philanthropic investments in reproductive justice feminist movements in the Global South, fostering collaboration among international and U.S.-based advocates through partnerships, strategies, and convenings.

- Support national feminist organizations with sustained funding to monitor the anti-rights movement, using the data to collaborate with each other to develop effective strategies for resisting opposition and advancing a feminist intersectional SRHRJ agenda.
- Address the transnational nature of the anti-gender movement by adopting a similarly interconnected approach within the SRHRJ movement. Our response should transcend geographic boundaries.

CIVIL SOCIETY ORGANIZATIONS

- Capitalize on global moments in SRHRJ, regardless of whether they represent gains or losses, to cultivate support for reproductive justice.
- Monitor the anti-gender movements and work in collaboration to create strategies to mitigate harm and safeguard human rights.



International Alliance
for Sexual and Reproductive
Health, Rights, and Justice