ENSURING ACCESS TO SAFE ABORTION CARE FOR BLACK WOMEN

There are many reasons, both personal and medical, why a woman might decide to terminate a pregnancy. Only a woman seeking an abortion can fully understand the complex factors informing her decision. Despite the intensely personal factors that may motivate a woman to obtain an abortion, there are many forms of oppression—economic, social, and political—that set up barriers for women seeking to exercise that constitutional right.

Black women, in particular, have been systematically denied the resources, services, and information they need to make these important and personal health decisions. The Hyde Amendment specifically targeted Black women when it was first attached to government health care funding in 1977 (passed in 1976, took effect in 1977).[1] Hyde prohibits the use of Medicaid funding for abortion care, except in the most extreme cases. Today, more than half (52%) of the women denied access to abortion services under Hyde are women of color, and almost one-fifth (18%) are Black.

Every woman has the right to make fundamental decisions concerning her body, sexuality, and reproductive health. The fight to ensure this right is both national and state-based is a battle to which In Our Own Voice: National Black Women for Reproductive Justice Agenda is fully committed.

LEGISLATIVE EFFORTS TO RESTRICT ACCESS

Many of us believed that the 2016 United States Supreme Court 5-3 ruling in *Whole Woman's Health v Hellerstadt,* affirming a woman's constitutional right to make her own decisions about abortion, would start a new era in removing the barriers to abortion rights. Striking down the Targeted Regulations of Abortion Providers (TRAP) laws in Texas sent a message to policymakers that there were limits to the barriers they could set up to prevent a woman from accessing abortion services.

However, TRAP laws, continue to be the "go-to" tactic for many anti-choice lawmakers; undermining the protections guaranteed to women under the landmark 1973 Supreme Court decision in *Roe v Wade,* which made abortion legal for all women. TRAP laws only target doctors who perform abortions and clinics that provide the services. They seek to:

- Limit the provision of care only to physicians;
- Require that clinical practices adhere to expensive medical hospital standards;
- Require abortion providers to get admitting privileges; and
- Require all facilities to have transfer agreements with a local hospital.

States are increasingly ramping up efforts to block access to abortion care to the detriment of Black women's health. During the first 4 months of 2018 alone, five states enacted 10 new abortion restrictions, and thirty-seven states introduced 347 measures to restrict access to either abortion or contraception.[2] Over the last decade, states enacted over 300 new abortion restrictions, the majority of which conflict with best medical practices.[3] [4] [5] Common restrictions include burdensome waiting periods; medication abortion bans; requirements that patients be given misinformation about abortion or be forced to have an ultrasound; mandating that clinics meet the same standards as ambulatory surgical centers; and mandating that clinicians have hospital admitting privileges.[6] Some states have also banned coverage of abortion care in insurance purchased through state Exchanges, in public employees' health plans, and even in private insurance plans.[7] [8] [9] [10] [11]

In just the first three months of 2017, legislators introduced 1,053 provisions related to reproductive health. Of these measures, 431 would restrict access to abortion services and 405 are proactive measures seeking to expand access to other sexual and reproductive health services.[12]

Women living in states that have the largest percentage of Black residents (i.e., Alabama, Georgia, Louisiana, Mississippi, North Carolina, and South Carolina) face numerous barriers to exercising their right to abortion.[13] These states, where Blacks comprise 20 percent or more of the population, each have four to six abortion restrictions[a] that hamper access to abortion care.[14]

This administration has waged continuous attacks on our reproductive rights under the guise of free speech and religious freedom. In 2018, anti-choice organizations challenged a California law before the Supreme Court requiring anti-choice organizations deceptively disguised as women's health centers to inform women about abortions and contraception options and to disclose to patients whether the center was an unlicensed crisis pregnancy center.[15] In *NIFLA v. Becerra* the Supreme Court ruled that the fake women's health clinics had a right under the First Amendment not to disclose full information to patients. The Department of Health and Human Services also created a new "Conscience and Religious Freedom Division," which broadly allows medical providers and health workers to deny healthcare services to groups, such as women and the trans community, if the individual finds that the service violates their personal beliefs.[16]

BLACK WOMEN AND ABORTION CARE

Today, abortion rates are declining and are lower than they have been since legalization. But, there is a clear connection between poverty and lack of access to contraception that puts low-income women at higher risk for unintended pregnancy. Low-income women experience unplanned pregnancies at a rate five times that of women with higher incomes, making abortion "increasingly concentrated among this group."[17] Three-quarters (75%) of abortion patients are low-income, and almost two-thirds (64%) are women of color.[18]

Black women account for 27.1 percent of all U.S. abortions, although they make up just 14.9 percent of the U.S. female population.[19] Various factors, such as Black women's greater likelihood of being poor, unemployed, or working in low-wage jobs without insurance coverage, drive this disproportionate abortion rate.[20][21][22] These factors create barriers to accessing high-quality reproductive health care, including contraceptive information and other family planning services.[23][24][25]

Additionally, for many Black women, having the legal right to abortion does not necessarily translate into being able to access that right. Low-income women, including Black women, are more likely to rely on publically funded health care, which often restricts coverage of abortion care. On the Federal level, the Hyde Amendment restriction, which has been attached to annual funding bills since 1977, specifically prohibits the use of Medicaid funds for abortion care except in the most extreme cases.[26] While states can decide whether to use their own Medicaid funds to cover abortion care for low-income women, and 17[b] have done so,[27] [28] 58% of women of reproductive age enrolled in Medicaid live in states that ban Medicaid coverage for abortion. Just over half of those enrollees (51%) are women of color.[29]

Unfortunately, when President Obama signed the Affordable Care Act (ACA) into law in 2010, he also signed an Executive Order maintaining the Hyde restrictions in the ACA, dealing another blow to women's reproductive rights.[30] Restrictions on abortion coverage disproportionately harm Black women, who comprise a significant portion of Medicaid beneficiaries, Federal employees, and military personnel. Hyde and these other restrictions impede women's reproductive rights.

IMPACT OF ABORTION RESTRICTIONS

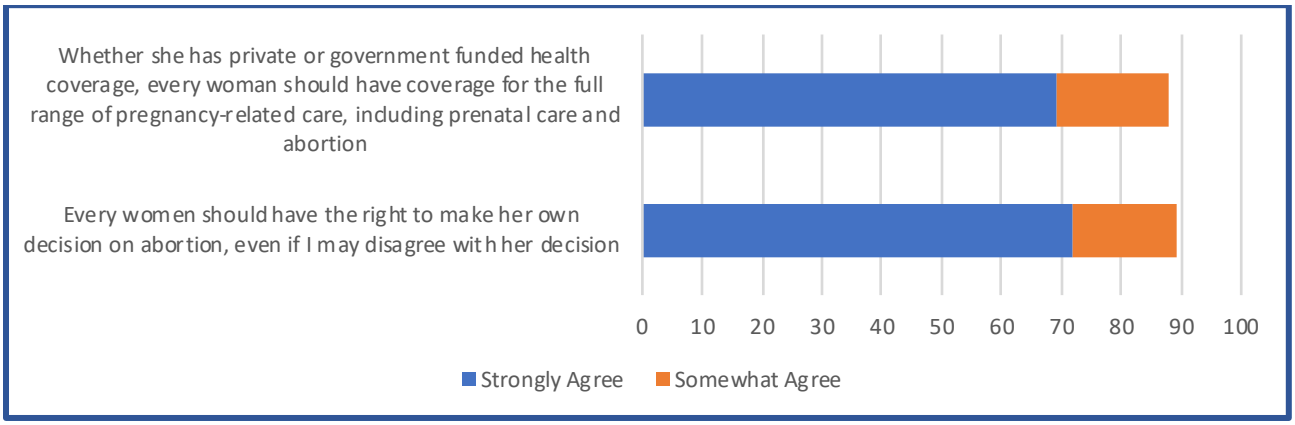
[a] Alabama has 5 restrictions; Georgia has 4; Louisiana has 5; Mississippi has 4; North Carolina has 4; and South Carolina has 6.
[b] These states are: Alaska, Arizona, California, Connecticut, Hawaii, Illinois, Maryland, Massachusetts, Minnesota, Montana, New Jersey, New Mexico, New York, Oregon, Vermont, Washington, and West Virginia.

As a result of restrictive laws, the number of abortion clinics is declining, and clinics are closing at record levels. Since 2011, more than 150 providers have either shut their doors or stopped providing abortion care.[31] Ninety percent of U.S. counties lack an abortion clinic.[32] The decline in the availability of clinics essentially puts abortion care out of reach for any woman who cannot travel the often significant distance to her nearest provider.

Another threat to reproductive rights is presented by the expansion of health care facilities that are owned and operated by religiously affiliated organizations that oppose reproductive rights. Catholic hospitals now provide one in six U.S. hospital beds, a 22 percent increase from 2001.[33] These facilities explicitly deny access to many reproductive services, including abortion care, even when the procedure is needed to save the woman's life.[34] Religiously affiliated hospitals are often the only local health care provider, particularly in rural states, and are likely to be the provider of last resort for uninsured women. This is particularly important for Black women, who are more likely not to have health insurance.

BLACK WOMEN AND MEN SUPPORT ABORTION CARE ACCESS

Based on a national poll conducted by *In Our Own Voice* in 2017, Black women and men overwhelmingly do not want to see the Supreme Court to overturn its Roe v. Wade decision (79 %).[35]



NEXT STEPS

The combination of Federal, state, and facility-specific restrictions is creating a situation where abortion may remain technically legal, but the lack of providers and onerous restrictions makes it inaccessible for many women. A racial and economic divide is emerging. On one side, there are white, wealthy women for whom abortion is rarer and paradoxically more accessible. And on the other, there are women of color and low-income women, who are more likely to need an abortion yet less likely to be able to afford or access one. "When a woman lives paycheck to paycheck, denying her coverage for an abortion can push her further into poverty."[36]

It is critical that women are empowered to make their own best decisions about whether or when to have children, build healthy families, and foster sustainable communities.[37] Abortion restrictions explicitly seek to deny women reproductive freedom and clearly oppress Black women and their communities. Access to abortion care cannot be separated from other human and reproductive rights. *In Our Own Voice* is working with our organizational partners to prevent conservative legislatures from enacting more restrictive measures; to expand access to medical abortion and telehealth services; to ensure that medical students and other health care professionals receive the proper training to perform abortions; and to hold policymakers accountable for their actions that restrict the right of women to access the full range of pregnancy-related health services, including abortion.

In Our Own Voice: National Black Women's Reproductive Justice Agenda is a national Reproductive Justice organization focused on lifting up the voices of Black women at the national and regional levels in our ongoing policy fight to secure Reproductive Justice for all women and girls. Our eight strategic

partners include Black Women for Wellness, Black Women's Health Imperative, New Voices for Reproductive Justice, SisterLove, Inc. SisterReach, SPARK Reproductive Justice Now, The Afiya Center and Women With A Vision.

---

[1] Levintova, H and Liss-Schultz, N. Mother Jones, *Today is the Anniversary of a Dark Day in Abortion Rights History,* September 2016. Online: http://www.motherjones.com/politics/2016/09/supreme-court-hyde-abortion-federal-funding-mcrae/.
[2] Nash E, Mohammed l, Ansari-Thomas Z, et al., *Policy Trends in the States: First Quarter 2018,* New York: Guttmacher Institute, April 17, 2018. Online: https://www.guttmacher.org/article/2018/04/policy-trends-states-first-quarter-2018
[3] Nash E, Benson Gold R, Rathbun G, Ansari-Thomas Z, *Laws Affecting Reproductive Health and Rights: 2015 State Policy Review*, New York: Guttmacher Institute, no date.
Online: https://www.guttmacher.org/laws-affecting-reproductive-health-and-rights-2015-state-policy-review.
[4] SCOTUS Blog, *Whole Women's Health v. Hellerstedt*, online: http://www.scotusblog.com/case-files/cases/whole-womans-health-v-cole/
[5] Guttmacher Institute, *State Laws and Policies: An Overview of Abortion Laws*, New York: Guttmacher, 2017. Online: https://www.guttmacher.org/state-policy/explore/overview-abortion-laws.
[6] Nash E, Benson Gold R, Ansari-Thomas Z, Cappello O, Mohammed L, *Trends in the States: First Quarter 2016*, New York: Guttmacher Institute, 2016. Online: https://www.guttmacher.org/article/2016/04/trends-states-first-quarter-2016.
[7] Jerman J, Jones RK, Tsuyoshi Onda T, *Characteristics of U.S. Abortion Patients in 2014 and Changes Since 2008*, New York: Guttmacher Institute, 2016.
[8] Guttmacher Institute, *Restricting Insurance Coverage of Abortion*, New York: Guttmacher Institute, 2017. Online: https://www.guttmacher.org/state-policy/explore/restricting-insurance-coverage-abortion
[9] The Henry J. Kaiser Family Foundation (KFF), *Interactive: How State Policies Shape Access to Abortion*, Palo Alto (CA): KFF, 2016. Online http://kff.org/interactive/abortion-coverage/
[10] Guttmacher Institute, *Restricting Insurance Coverage of Abortion*, op. cit.
[11] Cohen P, "Public-Sector Jobs Vanish, Hitting Blacks Hard, *New York Times*, May 24, 2015. Online: http://www.nytimes.com/2015/05/25/business/public-sector-jobs-vanish-and-blacks-take-blow.html?_r=0
[12] Guttmacher Institute, *Laws Affecting Reproductive Health and Rights: State Policy Trends in the First Quarter of 2017*, New York: Guttmacher Institute, April 12, 2017. Online: https://www.guttmacher.org/article/2017/04/laws-affecting-reproductive-health-and-rights-state-policy-trends-first-quarter-2017.
[13] U.S. Census, *Interactive Population Map 2010,* Washington, DC: U.S. Census Bureau, no date. Online: http://www.census.gov/2010census/popmap/
[14] *State Laws and Policies: An Overview of Abortion Laws*, op. cit.
[15] National Institute of Family and Life Advocates v. Becerra, 583 US __ (2018).
[16] Department of Health Human Services, *Press Release: HHS Announces New Conscience and Religious Freedom Division, Washington, DC: Department of Health and Human Services*, January 18, 2018. Online: https://www.hhs.gov/about/news/2018/01/18/hhs-ocr-announces-new-conscience-and-religious-freedom-division.html .
[17] Jones R, Jerman J, *Population Group Abortion Rates and Lifetime Incidence of Abortion: United States, 2008-2014*, New York: Guttmacher Institute, October 2017.
[18] Jerman J, *Characteristics of U.S. Abortion Patients in 2014 and Changes Since 2008*, op. cit.
[19] Ibid.
[20] Ibid
[21] National Coalition on Black Civic Participation and the Black Women's Roundtable, *Black Women in the United States, 2014: Progress and Challenges*, Washington, DC: National Coalition on Black Civic Participation and the Black Women's Roundtable, 2014. Online: https://www.washingtonpost.com/r/2010-2019/WashingtonPost/2014/03/27/National-Politics/Stories/2FinalBlackWomenintheUS2014.pdf
[22] National Women's Law Center (NWLC), *National Snapshot: Poverty Among Families, 2014*, Washington, DC: NWLC, 2015. Online: https://nwlc.org/resources/national-snapshot-poverty-among-women-families-2014/
[23] Guttmacher Institute, *Fact Sheet: Induced Abortion in the United States*, New York: Guttmacher Institute, 2017. Online: https://www.guttmacher.org/fact-sheet/induced-abortion-united-states.
[24] National Women's Law Center (NWLC), *Women and Poverty, State by State*, Washington, DC: NWLC, no date. Online: https://nwlc.org/resources/women-and-poverty-state-state/.
[25] Salganicoff A, Sobel L, Kurani N, Gomez I, *Coverage for Abortion Services in Medicaid, Marketplace Plans and Private Plans*, Palo Alto (CA): Henry J. Kaiser Family Foundation, 2016. Online: http://kff.org/womens-health-policy/issue-brief/coverage-for-abortion-services-in-medicaid-marketplace-plans-and-private-plans/
[26] Boonstra H, "The Heart of the Matter: Public Funding of Abortion for Poor Women in the United States," *Guttmacher Policy Report* 2007; 10(1): 12-16. Online: https://www.guttmacher.org/about/gpr/2007/03/heart-matter-public-funding-abortion-poor-women-united-states.
[27] Boonstra H, "The Heart of the Matter," op. cit.
[28] Guttmacher Institute. *Medicaid Funding of Abortion*. New York: Guttmacher Institute, April 19, 2018 Online: https://www.guttmacher.org/evidence-you-can-use/medicaid-funding-abortion
[29] Donovan M, "In Real Life: Federal Restrictions on Abortion Coverage and the Women They Impact," *Guttmacher Policy Review* 2017; 20. 2017.
[30] Corn D, "Obama and the Hyde Amendment," *Mother Jones*, March 24, 2010. Online: http://www.motherjones.com/mojo/2010/03/obama-and-hyde-amendment.
[31] Deprez E, "Abortion Clinics are Closing at a Record Pace," *Bloomberg Businessweek*, February 24, 2016. Online: https://www.bloomberg.com/news/articles/2016-02-24/abortion-clinics-are-closing-at-a-record-pace.
[32] Jones R, Jerman J, *U.S. Abortion Rate Continues Decline, Hits Historic Low*, New York: Guttmacher Institute, 2017. Online: https://www.guttmacher.org/news-release/2017/us-abortion-rate-continues-decline-hits-historic-low.
[33] Kaye J, Amiri B, Melling L, Dalven J, *Health Care Denied: Patients and Physicians Speak Out About Catholic Hospitals and the Threat to Women's Health and Lives*, New York: American Civil Liberties Union, 2016. Online: https://www.aclu.org/report/health-care-denied
[34] Ibid.
[35] In Our Own Voice: National Black Women's Reproductive Justice Agenda. *Results from a National Survey of Black Adults: The Lives and Voices of Black America on the Intersections of Politics, Race, and Public Policy*, April 2018.
[36] All Above All, *The Hyde Amendment Fact Sheet*, Washington, DC: All Above All, 2017. Online: http://allaboveall.org/resource/hyde-amendment-fact-sheet/.
[37] Ross L, *Understanding Reproductive Justice*, Trust Black Women, 2011. Online: https://www.trustblackwomen.org/our-work/what-is-reproductive-justice/9-what-is-reproductive-justice.