

5 Protecting and Enhancing the Reproductive Freedom of Latinas

Since 1995, the onslaught of attacks on the reproductive rights of women, and thus the freedom of women to make life choices, has been relentless. State legislatures have passed 511 measures restricting women's reproductive health access since 1995, while Congress has voted 147 times in the last 10 years to restrict women's access to reproductive health care.ⁱ The Bush Administration, in particular, has sought to undermine the hard fought gains of the reproductive rights movement achieved over several decades of labor and sacrifice.ⁱⁱ Anti-choice zealots have been working especially hard to pass laws that bestow legal rights upon embryos and fetusesⁱⁱⁱ and to pack the bench with anti-choice judges as part of their overall campaign to overturn *Roe v. Wade*. The effect of their strategy is a continual erosion of a woman's right to choose.

Moreover, coercive, discriminatory and/or punitive policies and practices are differentially impacting Latinas and other women of color. The effect of these policies is eliminating choice from Latinas and thus restricting their reproductive freedom. For example, welfare family caps force women to decide whether to have more children or have their public benefits taken from them. Specifically, a welfare family cap law "states that women who have additional children while receiving Temporary Assistance to Needy Families (TANF) benefits will not have their benefits raised. The purpose of this type of law is to "discourage" TANF recipients from having more children at a time when they don't have the means to support them."^{iv} Additional restrictions on Latinas' reproductive freedom include the Hyde Amendment which prohibits the use of federal funds to cover abortion services. This proportionately impacts low-income Latinas because many rely on Medicaid (which is jointly financed by federal and state funding) for their health care coverage. Most disturbingly are coercive policies that blatantly restrict women's ability to make autonomous life choices. Namely, policies such as court mandated use of Norplant issued by judges to women who have been convicted of drug use during pregnancy. These women must choose between serving time in jail or using Norplant. Additional policies proposed in the early 1990's coercively tied the use of Norplant to the receipt of welfare benefits and/or cash incentives.^v These bills were attempting to take away a woman's ability to make an informed decision by couching financial incentives in terms of "choice". Fortunately, these legislative efforts failed, however, such policies and legislative efforts disproportionately impact women of color. While the tactics and subterfuge may vary, these policies all seek to place the locus of control for reproductive health decisions outside of Latinas' hands, thereby violating the fundamental human right to self determination and undermining the health and well-being of Latinas.

To protect and enhance the reproductive rights of Latinas, the following recommendations are offered:

Policy Recommendations

- ☑ Demand Congressional Action to repeal the Hyde Amendment.
 - The Hyde Amendment prohibits federal funds to be used for abortions. This disproportionately impacts low-income Latinas and other women of color who utilize Medicaid and other federally-funded entities, such as Title X clinics, for provision of their reproductive health care services. The Hyde Amendment cuts across numerous constituencies, impacting women in the military, disabled women and women receiving care from Indian Health Services.
- ☑ Support laws that protect and enhance the right of Latinas to accessible and affordable abortion services, while opposing laws and regulations that further restrict Latinas' access. This includes policies that impose age restrictions, time delays, parental consent, and conditions on funding.
- ☑ Oppose the ability of states to impose family cap provisions in their welfare laws.
- ☑ Support the confirmation of federal judges who will uphold the law and protect a woman's constitutional right to choose.

ⁱ "Going positive on prevention: American voters are becoming aware of threats to the values represented by Roe," Catholics for a Free Choice, (22 December 2006) available at http://www.accessmylibrary.com/coms2/summary_0286-29042492_ITM

ⁱⁱ **1965** *Griswold v. Connecticut* (381 U.S. 479); **1971** *United States v. Vuitch* (402 US 62); **1973** *Roe v. Wade* (410 US 113); **1983** *City of Akron v. Akron Center for Reproductive Health* (462 US 416); **1992** *Planned Parenthood of Southeastern Pennsylvania v. Casey* (505 US 833); **2000** *Stenberg v. Carhart* 9530 U.S. 914); **2006** *Ayotte v. Planned Parenthood of Northern New England*

ⁱⁱⁱ Such examples include: Unborn Victims of Violence Act of 2004; The Center for Medicare and Medicaid Services allows states to classify a fertilized egg as an "unborn child," eligible for coverage under the State Children's Health Insurance Program, rather than allowing coverage of pregnant women under the program; this particularly impacts pregnant immigrant women who use emergency Medicaid at the federal level (labor and delivery are covered); a Louisiana law regulating assisted reproduction defines an in vitro embryo as a juridical person with nearly the same rights as infants and requires that disputes over the disposition of the embryo be resolved by what is in the best interests of the embryo. South Dakota legislators in 2004 passed legislation that granted fetuses, embryos, and even fertilized eggs the same rights under the state's Bill of Rights as human beings already born.

^{iv} "Welfare 'family cap' law unknown to many," Joyce Frieden, (February 15 2005) available at http://www.findarticles.com/p/articles/mi_m0CYD/is_4_40/ai_n12416162/print

^v "Norplant: A New Contraceptive with a Potential for Abuse," (January 31, 1994) ACLU, available at <http://www.aclu.org/reproductiverights/contraception/16528res19940131.html>