

¡SIN SEGURO, NO MÁS!

WITHOUT COVERAGE, WITHOUT SAFETY, NO MORE!



*A call to lift the bans that deny Latinas access
to safe, legal, and affordable abortion care*

September 2014



**NATIONAL LATINA
INSTITUTE** FOR
REPRODUCTIVE HEALTH
Salud | Dignidad | Justicia



“I certainly would like to prevent, if I could legally, anybody having an abortion — a rich woman, a middle-class woman, or a poor woman. Unfortunately, the only vehicle available is the...Medicaid bill.”

— U.S. Representative Henry Hyde (R-IL), 1977 Medicaid debate

“For too long, politicians have been allowed to deny a woman insurance coverage for abortion. Every Latina should be able to get the care she needs, no matter how much money she has in her pocket, her immigration status, or her zip code.”

— Jessica González-Rojas, Executive Director at the National Latina Institute for Reproductive Health, 2014 statement

CONTENTS

ABOUT THE NATIONAL LATINA INSTITUTE FOR REPRODUCTIVE HEALTH.....	3
EXECUTIVE SUMMARY.....	3
A LEGACY OF INJUSTICE.....	4
Abortion Before <i>Roe v. Wade</i> : From State Regulation to Constitutional Right.....	4
The Hyde Amendment: How We Got From <i>Roe v. Wade</i> to Rosie Jiménez.....	4
State Battlegrounds: How Restrictions in the States Compromise Latina Health and Decision-making.....	5
Disparities Persist: How Health and Economic Inequity Magnify the Effects of the Hyde Amendment.....	6
HYDE HURTS: ONGOING HARMS OF BANS ON ABORTION COVERAGE.....	6
HOW LATINAS ARE FIGHTING BACK AND GETTING PROACTIVE.....	7
POLICY RECOMMENDATIONS.....	7
CONCLUSION.....	8
ACKNOWLEDGMENTS.....	8
NOTES.....	9



ABOUT THE NATIONAL LATINA INSTITUTE FOR REPRODUCTIVE HEALTH

The National Latina Institute for Reproductive Health (NLIRH) builds Latina power to guarantee the fundamental human right to reproductive health, dignity, and justice. We elevate Latina leaders, mobilize our families and communities, transform the cultural narrative, and catalyze policy change. Our vision is to create a society in which Latinas have the economic means, social capital, and political power to make and exercise decisions about their own health, family, and future.

NLIRH is the only national reproductive justice organization dedicated to advancing social justice and human rights for the 26 million Latinas, their families, and communities in the United States.

NLIRH was founded in 1994, the same year as the founding of the reproductive justice (RJ) movement. Since then, the organization has grown to meet the evolving needs of an increasingly diverse and powerful Latina population and advance a reproductive justice agenda informed by the priorities and experiences of activists on the ground. We focus on three critical and interconnected areas: abortion access and affordability; sexual and reproductive health equity; and immigrant women's health and rights.

To support or learn more about the National Latina Institute for Reproductive Health, please visit: <http://latinainstitute.org/>.

EXECUTIVE SUMMARY

Women of color and low-income women in the United States have long struggled to access the same healthcare, and exercise the same constitutionally-protected reproductive rights, as their white and higher-income counterparts. In 1973, the Supreme Court recognized a constitutional right to abortion in the landmark case of *Roe v. Wade*. Yet for decades, this promise of self-determination and reproductive equity has remained out of reach for low-income women and women of color, due in large part to the Hyde Amendment, a policy first attached to an annual appropriations bill in 1976.

Bans on insurance coverage for abortion discriminate against low-income women and intentionally deny meaningful access to their constitutional right to decide to end a pregnancy by banning federal Medicaid funds from covering abortion. After the Hyde Amendment was introduced, and subsequently passed each year since, similar policies have proliferated throughout appropriations legislation, with similar amendments finding their way into nearly every spending bill.

Currently, restrictions on abortion coverage deny affordable abortion services to a growing segment of the population, including: Medicaid-eligible women and Medicare beneficiaries; Federal employees and their dependents; Peace Corps volunteers; Native American women; women in federal prisons and detention centers, including those detained for immigration purposes; and use by the District of Columbia of its own funds for abortion coverage for low-income women, in addition to the Medicaid-eligible population originally targeted by the Hyde Amendment.ⁱ

More than one in three Latinas receives her healthcare from a program, insurer, or employer affected by these bans.ⁱⁱ

In the United States, where race and poverty are inextricably linked, restrictions on public insurance coverage for abortion have a harmful and disproportionate impact on the health, economic security, and overall well-being of women of color. Latinas, and other women of color, experience disproportionately high unintended pregnancy rates, are more likely to live in poverty and be unable to afford abortion (or other healthcare) out-of-pocket, and are more likely to be enrolled in public insurance programs.

Bans on insurance coverage for abortion form part of the landscape of reproductive oppression and economic insecurity that leaves more than two in three Latinas “sin



seguro” or “without coverage,” with few options to pay for a needed abortion. Latinas, particularly immigrant Latinas, already face formidable barriers to accessing health insurance; even after the gains of the Affordable Care Act, nearly one in three Latinas remains uninsured. For those Latinas that do have employer-sponsored insurance, state-level attacks on insurance coverage for abortion in the private market and healthcare exchanges pose a growing threat.

Abortion access is an essential component of reproductive healthcare that 28 percent of Latinas will need over their lifetime, compared to only 11 percent of their white counterparts.ⁱⁱⁱ While abortion remains a safe, legal, and constitutionally-protected form of medical care in the United States, the federal restrictions on insurance coverage, exacerbated by increasing federal and state regulations attempting to limit access to abortion care, and persistent health inequities, combine to render the constitutional right meaningless in the face of often insurmountable obstacles.

This report presents the historical context surrounding the Hyde Amendment, how abortion coverage bans exacerbate existing health disparities, and the ongoing impact of these bans on Latinas and other women of color, and low-income women. This report concludes with policy recommendations.



More than two out of every three Latinas lacks insurance coverage for abortion services — and even more are under attack.



1 in 3

Latinas remains uninsured, even after the gains of the Affordable Care Act. Uninsured women often struggle to pay the full out-of-pocket cost for abortion and have few options for affordable care.



1 in 3

Latinas is qualified for and enrolled in Medicaid. Current federal policy unfairly bans coverage for abortion, leaving low-income women to pay out-of-pocket, which may cause them to fall into poverty, or be forced to carry an unwanted pregnancy to term.



1 in 3

Latinas participates in an employer-based insurance plan. Historically, private insurance plans have included abortion coverage (one study found 87 percent of private plans included abortion coverage).

Source: <http://kaiserfamilyfoundation.files.wordpress.com/2013/01/8189.pdf>; <http://www.guttmacher.org/media/inthenews/2011/01/19/index.html>

A LEGACY OF INJUSTICE

Abortion Before *Roe v. Wade*: From State Regulation to Constitutional Right

In the United States, the legal and political history surrounding abortion is long, complex, and fraught with conflict. Historically, decisions about abortion policy were made by state legislatures. By the end of 1972, four states had legalized abortion, and 14 additional states had laws decriminalizing abortion in cases of rape, incest, or for pregnancies which would lead to permanent physical disability.^{iv}

In 30 states, ending a pregnancy was completely illegal. A woman living in those states with financial means could travel to a state where she could safely obtain care. Many other women, desperate and without recourse, turned to unsafe, illegal abortion. An estimated 1.2 million women resorted to illegal abortion each year in the years leading up to the *Roe v. Wade* Supreme Court decision.^v Since women of color were disproportionately low-income then, as they remain today, they were more likely than white counterparts to resort to illegal abortion, as they had no other options. **In New York City, more than 90 percent of women who died as a result of illegal abortion were Latina women.**^{vi} In the South, a Black woman was 14 times more likely to die of an illegal abortion than a white woman.^{vii} In the days before *Roe*, seeking an abortion was all too often a matter of life and death for women of color and those too poor to afford the limited care available.

In 1973, the legal landscape surrounding abortion changed dramatically.^{viii} The *Roe v. Wade* decision legalized abortion across the United States and brought the promise of reproductive autonomy into view for many women, including those that qualified for Medicaid, a joint federal and state program that provides health insurance coverage for low-income individuals and families, provided they qualify. Although largely funded by the federal government, Medicaid is run by individual states. At the time of

the *Roe v. Wade* decision, Medicaid included abortion services in coverage along with other pregnancy-related care. Unfortunately, this relief was short-lived. Within three years, the Hyde Amendment would be enacted for the first time.

The Hyde Amendment: How We Got From *Roe v. Wade* to Rosie Jiménez

Since *Roe v. Wade*, the right to make personal decisions about pregnancy and abortion has been under attack—with women of color and low-income women paying the steepest price. The Hyde Amendment, as first introduced by Representative Henry Hyde III (R-IL) in 1976, was a total ban on federal Medicaid coverage of abortion.

As an amendment added annually to appropriations legislation, the Hyde Amendment must be reenacted each year to remain in effect. The yearly reauthorizations have varied as to whether they include exceptions for rape, incest, or life of the mother.^{ix} In its current iteration, the Hyde Amendment bans federal funding for abortion coverage through Medicaid except for circumstances of life endangerment, rape, and incest.

There is little question about the intent of the policy's author. As Rep. Hyde himself told his colleagues during a congressional debate over Medicaid funding in 1977: "I certainly would like to prevent, if I could legally, anybody having an abortion, a rich woman, a middle-class woman, or a poor woman. Unfortunately, the only vehicle available is the...Medicaid bill."

Initially, the Hyde Amendment met with court challenges that called into question whether it might violate the protections of *Roe v. Wade*. Unfortunately, the Supreme Court found the Hyde Amendment to be constitutional in the 1981 case of *Harris v. McRae*, despite its disproportionate impact on low-income women and women of color.^x In *Harris*, a five-justice majority determined



that federal and state governments were under no obligation to pay for abortion care, stating a woman's freedom of choice did not carry with it "a constitutional entitlement to the financial resources to avail herself of the full range of protected choices."^{xvi} The *Harris* decision sent a somber message to low-income women: that constitutional rights could in fact be placed out of reach if politicians desired to do so.^{xvii}

For low-income women, the result of the Hyde Amendment has been that their ability to access safe and affordable abortion care is once again left up to the states. State legislatures can decide whether they provide state funds in order to ensure that Medicaid in their state includes abortion coverage. State courts can decide whether the Hyde Amendment violates the state constitution or laws. To date, only four state legislatures have opted to supplement Medicaid to provide coverage for abortion care (the courts in 13 additional states have required it).^{xviii}

In practice, low-income Latinas' ability to access the abortion care they need is largely dependent on the state in which they live.

Sin Seguro Stories: Rosie



Shortly after the Hyde Amendment was first enacted, it claimed the life of a low-income Latina.^{xix} Rosie Jiménez was a 27-year-old college student and single mother who became pregnant after *Roe v. Wade* made abortion legal. She qualified for Medicaid, but because

the Hyde Amendment had gone into effect two months earlier, she couldn't get coverage for an abortion. Rosie was six months away from graduating with a teaching credential—a ticket to a better life for her and her five-year-old daughter.

Unable to raise the money to pay for a legal abortion, she turned to an unsafe and illegal procedure. On October 3, 1977, Rosie died of septic shock, the first known victim of the Hyde Amendment, and a painful reminder that legal abortion means little to a woman without the ability to pay for it.^{xx}

State Battlegrounds: How Restrictions in the States Compromise Latina Health and Decision-making

The harms of the Hyde Amendment are exacerbated by state-level restrictions on abortion, which 46 states have now enacted.^{xxi} These new laws have forced doctors to give patients medically-false information about abortion, required young people to secure parental consent for an abortion, and in some states required women to make multiple, medically-unnecessary appointments for

care. New laws have also forced providers to completely rebuild their health centers by setting requirements about the size of closets and even the color of paint on their walls. As a result, many health centers that provide all types of quality women's healthcare, including safe, licensed abortion care, have had to shut down.^{xxii}

The gap is widening between those states where a woman can find an abortion provider and access care in a safe and affordable manner, and those states where abortion services are almost altogether out of reach. In 2013, 56 percent of women of reproductive age lived in one of the 27 states considered to be hostile for women seeking abortion.^{xxiii} Over half of the women of reproductive age in the United States face politically motivated and medically unnecessary restrictions on their legal right to access abortion services.

These restrictions disproportionately affect low-income women of color who are forced to travel long distances, and pay steep fees out-of-pocket to obtain abortion care.

As restrictions increase, and clinics close down, the landscape is looking increasingly like the pre-*Roe* landscape. Women who can afford to do so travel long distances and across state lines to obtain abortion. Women who cannot afford to pay out-of-pocket have much more limited access and are either forced to continue a pregnancy to term or seek other means. One in four low-income women on Medicaid who seek abortion care are unable to afford to pay the out-of-pocket cost and are forced to carry the pregnancy to term.^{xxiv}

The new wave of state-level restrictions on abortion providers and the women who rely on their services are even more insidious when understood in the context of decades-old bans on abortion coverage. For women of means, who have long been insulated from the struggles of those with lower incomes, the last few years have been an unprecedented new attack. For women of color and low-income women, these laws only add obstacle to obstacle, often increasing the cost of abortion for patients and making an already untenable situation even more desperate.

While the Hyde Amendment prohibits the use of federal funds for abortion services, some states have decided (or are required by court order) to cover abortion with state funds. While this means that some women escape direct harm, it worsens the disparities between states that do and do not provide abortion coverage and leaves women's health in the hands of state legislators or judges.

Currently 17 states provide public coverage for abortion services. Perhaps unsurprisingly, these are largely the same states that have resisted or rejected restrictions on abortion providers and women seeking the procedure.

Taken together, new state-level restrictions and longstanding bans on insurance coverage for abortion divide the country in two: the states with fewer restrictions and where state funds are used to cover abortion, and states where politicians both severely restrict and deny insurance coverage for abortion services. **Data from the U.S. Census indicates that today, nearly half of Latinas and approximately 70 percent of Black women—and a majority of all women of color—live in the latter, doubly hostile states.**



Disparities Persist: How Health and Economic Inequity Magnify the Effects of the Hyde Amendment

As a result of economic and social barriers to equality, Latinas broadly face severe reproductive health disparities and are disproportionately dependent on Medicaid and other federal insurance programs and safety net healthcare providers. In 2012, 29 percent of Latino/a adults and children were enrolled in Medicaid.

^{xx} The same year, 60 percent of Medicaid recipients in Texas were Latino/a, and in Florida the number was 33 percent.^{xxi} According to the 2013 American Community Survey, 25 percent of Latinas live below the poverty level.^{xxii} These factors mean that Latino/a families are among the least likely to be able to afford out-of-pocket healthcare, whether for abortion services or any other type of care.

Moreover, Latinas are more likely to need reproductive healthcare, due to persistent health inequities. Latinas have the highest rates of cervical cancer incidence and have its second highest mortality rate.^{xxiii} Latinas are twice as likely as their white peers to experience unintended pregnancy, therefore twice as likely to need pregnancy-related care like prenatal care or abortion.^{xxiv} Multiple factors contribute to these alarming statistics including less access to sexual health education, information, and services including affordable contraception. Many Latinas rely on Title X clinics for affordable contraception; clinics which have suffered greatly due to the decline in real dollars for the Title X federal family planning program. In 2010, seven million Latinas needed contraceptive care and services, a 46 percent increase from 2000.^{xxv}

In addition to having diminished access to health insurance and care, Latinas have fewer financial recourses with which to pay out-of-pocket medical costs. While the average wage gap for women in the United States is 77 cents, Latinas in the US are paid, on average, just 54 cents for every dollar paid to white, non-Hispanic men.

As long as reproductive and sexual health equities persist, Latinas will continue to shoulder a disproportionate share of the impact of abortion coverage bans.

Sin Seguro Stories: Anabelle



AZ

Anabelle* has seven children, ranging in age from one to 17, three of whom are disabled. She is currently an unemployed single parent. Her child support has been cut off since her ex-husband recently lost his job. Anabelle's 17-year-old daughter has an eight-month-old child, both of whom also live with Anabelle and are dependent on her for their food and lodging. When Anabelle got pregnant, she learned the cost of her abortion would be \$450—an unimaginable price for her circumstances. In order to obtain the care she knew was best for her family, she turned to the Arizona Abortion Access Network for help.

* Name has been changed.

HYDE HURTS: ONGOING HARMS OF BANS ON ABORTION COVERAGE

Restrictions on insurance coverage for abortion have serious consequences for Latinas, their families, and their communities:

- **Bans on insurance coverage for abortion force low-income Latinas to struggle to raise funds for the care they need.**

This often results in delays from when a woman has made a decision to when she is able to afford the care she needs—delays which frequently increase the cost of abortion care. In a 2011 study, the average cost to patients for first-trimester abortion care was \$397 and \$854 for second trimester abortion care.^{xxvi} In the same study, 50 percent of respondents needed assistance to pay for their abortion care and nearly 154 participants had to rely on abortion funds and help from friends and family.^{xxvii}

- **Bans on insurance coverage for abortion put Latinas and their families in untenable economic situations.**

For many who qualify and enroll in Medicaid, the cost of ending a pregnancy forces Latinas to choose between paying for rent or groceries or paying for the care they need. In fact, a woman who attempts to access abortion care but is denied is three times more likely to fall into poverty than a woman who is able to get the care she needs.^{xxviii}

- **Bans on insurance coverage for abortion force women to carry unwanted or unplanned pregnancies to term.**

Low-income Latinas who are not able to raise the necessary funds are often forced to continue their pregnancies against their will. Studies have shown that one in four women who have decided to end a pregnancy and who rely on Medicaid for health insurance are forced to continue their pregnancies due to lack of abortion coverage.^{xxix}

- **Bans on insurance coverage for abortion endanger Latinas' lives by increasing the likelihood they will seek unsafe abortion.** International and pre-*Roe v. Wade* data make clear that when Latinas and other women are denied safe, legal care from a licensed, affordable provider, they may be forced to resort to unsafe or ineffective methods to end a pregnancy.
- **Bans on insurance coverage for abortion disproportionately harm LGBTQ Latino/as.** Access to affordable abortion coverage is also an important issue for lesbian, gay, bisexual, transgender, queer (LGBTQ) and gender-nonconforming Latino/as. Many low-income LGBTQ people, particularly LGBTQ people of color, experience high rates of poverty, employment discrimination, and lack of insurance due to lack of relationship recognition for employees and their partners/dependents. These factors mean that LGBTQ people of color are disproportionately reliant on Medicaid for health insurance. In fact, 28 percent of Latino/a transgender persons live in poverty according to the National Transgender Discrimination Survey,^{xxx} along with 24 percent of lesbian and bisexual women.^{xxxi} Additionally, research suggests that LGBTQ persons face additional barriers to reproductive healthcare, that some subpopulations, like LGBTQ youth, may be at higher risk for unintended pregnancy than their heterosexual counterparts,^{xxxii} and that risk of sexual assault may also contribute to the need for abortion services.^{xxxiii} For all of these reasons and more, LGBTQ Latino/as who enroll and qualify for Medicaid need abortion coverage—and are harmed by coverage bans.



● **Bans on insurance coverage for abortion disproportionately harm immigrant women.**

Immigrant women, particularly those who are undocumented, already face formidable barriers to accessing reproductive healthcare. Immigrant women are more likely to be of reproductive age, and experience higher rates of unintended pregnancy than their non-immigrant counterparts, leading to higher need for abortion services. Immigrant women are also less likely to receive employer-sponsored health insurance, and more likely to live in poverty and qualify for Medicaid.^{xxxiv} For women in immigration detention—conditions are even worse. Women in detention are separated from their children, their partners, and their healthcare providers. They have been denied HIV medication, forced to give birth in shackles, and sexually assaulted by guards.^{xxxv} Current policy, modeled after the Hyde Amendment, prohibits abortion coverage for women in immigration detention.^{xxxvi} Recent proposals have gone even further, and would make abortion nearly impossible for women in detention to access, including for those who are able to pay out-of-pocket.^{xxxvii}

Sin Seguro Stories: Gloria



Gloria* is a 22-year-old mother of two, struggling to get back on her feet after an abusive ex-boyfriend maxed out her credit cards. She was fired after missing two days of work to stay with her sick child at the hospital, and is currently staying on a friend's couch. When she found out she was pregnant, she knew she couldn't keep it. She couldn't afford to pay for an abortion so she borrowed from a friend, asked her church for help, and received a grant from her local abortion fund. While she was ultimately able to obtain the abortion care she needed, she had to delay the procedure for weeks to raise the funds and expose intimate aspects of her life to friends and her church.

** Name has been changed.*

HOW LATINAS ARE FIGHTING BACK AND GETTING PROACTIVE

While there is no question that Latinas are among the most severely harmed by the Hyde Amendment and other bans on insurance coverage for abortion, they are also at the vanguard of efforts to repeal these bans and advance a proactive vision for justice and social change.

Latinas and other women of color, low-income people, and young people across the country are uniting to oppose coverage bans in federal legislation, organize and mobilize communities for reproductive justice, and send a clear message to policymakers that access to safe, legal, and affordable abortion is a priority for a diverse and growing base of support. These activists are gathering in kitchens, church basements, and community centers to tell their stories and speak out.

One recent example of the growing strength of this movement is the All* Above All campaign—which has led petition drives, a 10,000-mile bus tour, and other organizing efforts across the country; brought activists together to speak to federal lawmakers in Washington, D.C.; and worked closely with champions in Congress, as well as state and local officials, to turn the tide against restrictions on abortion access and affordability.

As a partner in the All* Above All campaign, the National Latina Institute for Reproductive Health is proud to stand united with

Latinas across the country who see the impact of the Hyde Amendment in our communities and who are working every day for the human right to healthcare and reproductive self-determination.



NLIRH staff and activists at All* Above All Hill Education Day on September 17, 2014.

POLICY RECOMMENDATIONS

Primary Recommendation: Lift all federal bans on insurance coverage for abortion.

- Remove all language in annual appropriations legislation that restricts coverage for or provision of abortion care in public health insurance programs. This includes repeal of the Hyde Amendment, and all policies that restrict funding for abortion care and coverage for: Medicaid-eligible women and Medicare beneficiaries; Federal employees and their dependents; Peace Corps volunteers; Native American women; women in federal

prisons and detention centers, including those detained for immigration purposes; and use by the District of Columbia of its own funds for abortion coverage for low-income women. Eliminate federal restrictions on abortion coverage in private health insurance plans.

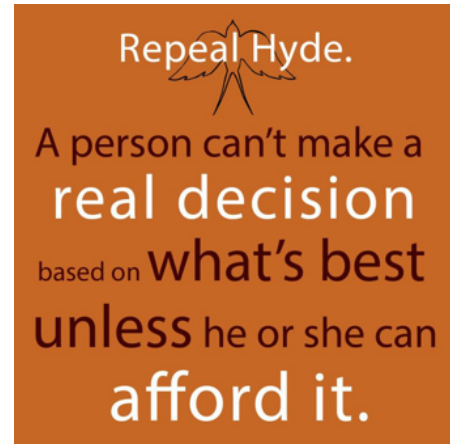
- Enact proactive legislation to permanently repeal abortion coverage bans and prohibit states from interfering with abortion coverage in private insurance plans, including in state healthcare exchanges.



Additional Recommendations: Promote health equity and economic security for Latinas, including immigrant, LGBTQ, and young people.

- Repeal and oppose legislation that restricts access to abortion services, including but not limited to: bans on race- or sex-selective abortion; pre-viability abortion bans; “personhood” amendments; and restrictions on abortion access for young people.
- Enact the Women’s Health Protection Act (WHPA) and other legislation that expands access to abortion care, including the pool of licensed, qualified providers.
- Support scientifically-sound, evidence-based decision-making in health and science policy.
- Reduce unintended pregnancy by increasing funding to the Title X family planning program and ensuring full implementation of the contraceptive coverage benefit of the Affordable Care Act.
- Improve health access and outcomes for Latinas, immigrant women, and communities of color by enacting the Health Equity and Accountability Act (HEAA) and the Health Equity and Access under the Law (HEAL) for Immigrant Women and Families Act.

- Support measures that improve economic security for Latinas by increasing the minimum wage, closing the race and gender pay gaps, and ensuring that immigrant women have access to lawful employment and benefits.



Source: Repeal Hyde Art Project. Available at: <http://www.repealhydeartproject.org/>

CONCLUSION

To attain reproductive justice for women of color and low-income women, we must commit ourselves to ending bans on abortion coverage. All women, including Latinas, need the ability to make critical decisions for themselves and their families—including decisions about pregnancy and parenting. Bans on insurance coverage for abortion undermine the health, financial security, and well-being of women, families, and communities. Moreover, these

bans indisputably fall hardest on women of color, young women, immigrant women, and those who are already struggling to make ends meet. The time is now to dismantle policies that divide our communities and harm those who already face too many barriers to healthcare. The time is now to build a future together that values the health and dignity of all our community members and loved ones and advances justice for all.

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for change. Finally, we acknowledge the millions of Latinas who continue the struggle every day for *salud*, *dignidad*, and *justicia* for themselves, their families, and their communities. ¡Pa'lante!

To support or learn more about The Lilith Fund, please visit: <http://www.lilithfund.org/>.

To support or learn more about the Arizona Abortion Access Network, please visit: <http://abortionaccessnetworkaz.org/>.

To support or learn more about the National Network of Abortion Funds, please visit: <http://www.fundabortionnow.org/>.

To learn more about All* Above All, please visit: <http://allaboveall.org/>.



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