

CENTER  
FOR  
REPRODUCTIVE  
RIGHTS

**2017–2018**

# FEDERAL POLICY AGENDA

Continuing the Fight for Reproductive  
Rights and Access to Care



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**ReproductiveRights.org**

# OUR PRIORITIES

- I. Guaranteeing everyone has access to contraception and preventive reproductive health services.
- II. Ensuring everyone has access to abortion care—no matter where they live or how they receive insurance coverage.
- III. Promoting safe, respectful, and nondiscriminatory maternal health care.
- IV. Advancing reproductive rights and access to reproductive health care worldwide.
- V. Strengthening a federal judiciary that respects the rule of law and every person's fundamental right to dignity and personal autonomy.

**For over two decades, the lawyers at the Center for Reproductive Rights have been the driving** force in many of the most significant legal victories ensuring access to reproductive healthcare across the globe. The Center's game changing litigation and advocacy work, combined with its unparalleled expertise in the use of constitutional, international, and comparative human rights law, have transformed how reproductive rights are understood by courts, governments, and human rights bodies. It has played a key role in securing legal victories in the United States, Latin America, Sub-Saharan Africa, Asia, and Eastern Europe on issues including access to life-saving obstetrics care, contraception, safe abortion services, and comprehensive sexuality information, as well as the prevention of forced sterilization and child marriage. The Center has brought groundbreaking cases before national courts, U.N. Committees, and regional human rights bodies, and it has built the legal capacity of women's rights advocates in over 60 countries. Headquartered in New York City, the Center has offices in Washington D.C., Bogotá, Nairobi, Kathmandu and Geneva.

In the United States, the Center has won numerous victories in federal and state courts, including the Supreme Court's decision in June 2016 in *Whole Woman's Health v. Hellerstedt*. In that decision, the Court held that Texas had violated the constitutional rights of women by enacting unnecessary health regulations that served no medical purpose, yet shut down clinics and made abortion services harder to obtain for many Texas women. The U.S. Solicitor General joined the Center for Reproductive Rights in arguing to the Court in *Whole Woman's Health* that the law was unconstitutional. The Center has taken important steps to ensure all women – in all states – have the right to make their own health decisions. However, with more anti-choice officials coming into power in all levels of government, from the White House to state houses, there are more battles around the corner.

Going into its 25th year, the Center for Reproductive Rights is more committed than ever to continuing the critical work of defending reproductive rights and advancing access to health care for all women and girls in the United States and across the globe.

# INTRODUCTION

## Federal Policy Agenda 2017–2018 At A Glance

Reproductive rights and full access to reproductive health care for all people face serious threats today. Our 2017–2018 policy agenda identifies policies we oppose because they work counter to our vision of a future in which every woman\* is an equal member of society, able to live a healthy life free of violence, disease, and poverty. This agenda also lays out proactive legislative priorities that would enable all individuals to access preventive reproductive health care and an affordable contraceptive method of their choosing, ensure the right to abortion care truly exists in fact and not just in theory, and promote safe and respectful maternal health care if and when a person decides to have children.

When women have access to the reproductive care they need, their health and economic outcomes improve markedly.<sup>1</sup> Conversely, their economic instability worsens considerably when women lack reproductive health services and the autonomy to obtain them.<sup>2</sup> This is especially true of the most vulnerable—including low-income women, women of color, immigrants, young people, and lesbian and transgender people. Strong families, thriving communities, and stable countries: all depend on the availability of affordable, quality women’s health care.<sup>3</sup>

We all have a stake in ensuring a healthy and just society. The impact goes far beyond the personal well-being of women. As partners, parents, and public citizens, men are also affected by women’s health issues. Health care providers, medical and public health groups, economists, and advocates from across the political spectrum recognize that reproductive health care is essential to a robust, productive, and free society.

We grew closer to achieving our vision when the United States Supreme Court reaffirmed the constitutional right to abortion in *Whole Woman’s Health v. Hellerstedt*. But with many politicians determined to roll back the clock, we are poised to fight back and do all we can to defend our rights. At the same time, we remain committed to promoting proactive policies that advance reproductive health, autonomy, and dignity for all.

Women have different reproductive health needs at different times in their lives, whether it be preventive care, abortion care, or maternal health care. The Center for Reproductive Rights will fervently protect its hard-fought victories in these areas, while also advancing the following priorities in the 115th Congress:

- Guaranteeing everyone has access to contraception and preventive reproductive health services.
- Ensuring everyone has access to abortion care—no matter where they live or how they receive insurance coverage.
- Promoting safe, respectful, and nondiscriminatory maternal health care.
- Advancing reproductive rights and access to reproductive health care worldwide.
- Strengthening a federal judiciary that respects the rule of law and every person’s fundamental right to dignity and personal autonomy.

\* Although this paper uses female pronouns as well as the term “woman,” we recognize that people who do not identify as women still need access to the full range of reproductive health care, including access to abortion care and contraception. The Center for Reproductive Rights intends all policy recommendations made in this document to apply to all people who need access to reproductive health care.

# I. GUARANTEEING EVERYONE HAS ACCESS TO CONTRACEPTION AND PREVENTIVE REPRODUCTIVE HEALTH SERVICES

The Affordable Care Act (ACA) has been instrumental in increasing access to reproductive health care services, including birth control, preventive care, and cancer screenings, which are essential for people to live healthy and economically secure lives.<sup>4</sup> In particular, by allowing women to plan their pregnancies, contraception has played a vital role in allowing women to participate as equal members of society.<sup>5</sup> Due to the ACA's requirement that all private insurance plans cover contraception with no co-pay, there are now over 55 million women in the U.S. eligible to receive birth control coverage without any out-of-pocket costs. Furthermore, allowing people to access the contraceptive method of their choosing is important in order for women to maintain autonomy and to realize the full potential that contraception can have. Individual contraceptive preferences and medical needs vary. With the increasing use of long-acting reversible contraceptives (LARCs) and the potential for over-the-counter oral contraceptives, robust contraceptive coverage is the only way to ensure an optimal match between patients and contraceptive products. Unfortunately, the ACA, including the birth control benefit, are under attack, and millions of people who gained access to critical health care services in recent years are threatened with losing it.

Of course, to be most effective, all people must have access to such insurance plans or comparable coverage. Yet some populations, including immigrants, women of color, and low-income people, remain underserved or lack access to health care altogether.<sup>6</sup> Furthermore, attempts to drastically reduce or even eliminate funding for safety-net family planning services, such as Title X, and to limit the reach of the ACA contraceptive coverage benefit – if not repeal it completely – by denying coverage to millions of women threaten the promise of unfettered reproductive care and contraceptive access.

Congress must oppose vigorously any efforts to repeal policies like the ACA that expand health care coverage, while also working to broaden access to health care and coverage for those who are currently excluded. Instead of threatening the progress we've made, lawmakers should build on the promise of the ACA in order to ensure that everyone has access to contraceptives and preventive care using the ACA guarantees as a baseline for coverage.

## KEY FACTS

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- Nearly all women who have been sexually active (99%) have used contraception at some point in their lives,<sup>7</sup> and 62% of all women of reproductive age are currently using a contraceptive method.<sup>8</sup>
  - In 2014, Title X-funded providers served 4.1 million low-income women and men.<sup>9</sup>
  - Title X patients are disproportionately black and Hispanic or Latino, with 21% of Title X patients self-identifying as black and 30% as Hispanic or Latino, as compared to 13% and 15% of the nation, respectively.<sup>10</sup>
  - Among women of reproductive age, 40% of the 6.6 million noncitizen immigrants are uninsured, compared with 18% of naturalized citizen immigrants and 15% of U.S.-born women.<sup>11</sup> Only 28% of poor noncitizen women of reproductive age have Medicaid coverage, compared with 46% of those born in the U.S.<sup>12</sup>
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### Congress Should Support the Following:

#### **Public and private insurance coverage of all FDA-approved over-the-counter contraceptive methods:**

Some methods of birth control are already available over the counter (OTC), including emergency contraception, and efforts are underway to secure OTC status for a birth control pill in the United States.<sup>13</sup> To ensure that all Americans have access to affordable contraception of their choosing, no-copay coverage under the ACA and Medicaid should extend to OTC methods without age restrictions and without requiring consumers to first secure a prescription.

**Access to contraception for service women and military dependents:** While civilian women can take advantage of the ACA's birth control benefit, women in our armed forces and military dependents do not enjoy the benefits of the ACA, as TRICARE was not covered by that legislation.<sup>14</sup> A law guaranteeing comprehensive contraceptive coverage and family planning counseling to service members and their dependents would ensure that the nearly 5 million women eligible for military health care<sup>15</sup> receive the same comprehensive contraceptive coverage and counseling as other federal employees and the millions of individuals enrolled in private insurance plans. Members of the military should also be able to access the contraceptive method of their choice at their base and be able to receive a deployment's worth of that preferred method prior to going overseas.

**Title X:** Title X, the only federal program dedicated to providing family planning services for low-income people, should be fully funded to meet the demand for family planning from the population it serves. For the millions who rely on Title X services, these safety-net health providers are often their only sources of access to preventive care, cancer screenings, testing for infectious diseases, contraception, and domestic violence counseling.<sup>16</sup> It is imperative that discrimination against qualified reproductive health care providers' for participation in Title X based solely on the services they offer be prohibited.

**HEAL for Immigrant Women and Families Act:** The Health Equity and Access under the Law (HEAL) for Immigrant Women and Families Act restores access to Medicaid and the Children's Health Insurance Program (CHIP) for all lawfully present immigrants who are otherwise eligible, including DREAMERS who have been granted temporary relief from deportation. This bill is critical for immigrant women, who are particularly likely to be of reproductive age, and therefore in need of sexual and reproductive health care, because they are disproportionately harmed by the legal and policy barriers to affordable health coverage.<sup>17</sup>

### **Congress Should Oppose the Following:**

**Efforts to reduce or eliminate funding** for programs and providers who offer reproductive health care services to poor and low-income people, including Title X and Planned Parenthood, as well as efforts to direct federal funding for women's preventive care away from specialized family planning clinics.

**Using claims of religious liberty to block women's access to essential health services:**

Interfering with another person's access to medical care—including reproductive health care—by invoking a right to “religious liberty” should not be permitted. Laws that privilege religious beliefs over women's health, including the Weldon Amendment, can threaten access to reproductive health services in the event of a miscarriage or prevent women from accessing affordable contraception to plan her family.<sup>18</sup> The Center therefore opposes laws that permit policymakers or employers to invoke religious beliefs to deprive others of vital health care services and calls on Congress to omit such language from its annual spending bill.



## Religious Discrimination and Reproductive Health: The *Hobby Lobby* and *Zubik* Decisions



One of the landmark achievements of the Affordable Care Act has been to guarantee access to preventive medical services—including FDA-approved contraceptive methods and counseling—without a copay. The policy is important because cost has proven to be a barrier to accessing family planning, especially long-lasting methods that tend to be more expensive.

Unfortunately, since its introduction the policy has been under constant attack from bosses who seek to impose their anti-contraception religious beliefs on employees who do not share those views. The U.S. Supreme Court has adjudicated two cases relating to the contraceptive coverage benefit.

In *Burwell v. Hobby Lobby* (2014), the Supreme Court held that for-profit closely held corporations could enjoy a special accommodation previously open only

to religiously affiliated nonprofits, allowing them to avoid covering contraception by notifying their insurer, which would be required to provide the coverage instead.

Not content with this outcome, a number of employers eligible for the accommodation challenged the notification requirement in order to prevent employees from accessing contraceptive insurance coverage—even though it would be provided by the insurance company and *not* the employer. In May 2016, the U.S. Supreme Court declined to resolve the challenge in *Zubik v. Burwell*, remanding the case back to the lower courts and leaving the fate of employees' access to contraception in limbo.

# II. ENSURING EVERYONE HAS ACCESS TO ABORTION CARE—NO MATTER WHERE THEY LIVE OR HOW THEY RECEIVE INSURANCE COVERAGE

The Supreme Court has made it clear, again and again—most recently in our successful *Whole Woman’s Health v. Hellerstedt* case—that women have a fundamental right to abortion care and that “undue burdens” on access violate the Constitution. In order for that right to be realized, abortion care must be affordable, available, and accessible. Important federal proposals designed to protect and expand abortion access have gained broad support in recent years, and that support has the potential to grow as more lawmakers understand the positive impact access to the full range of reproductive health services, including abortion care, can have in people’s lives.

But endless attacks on reproductive care at the state and federal levels have resulted in a patchwork of access to abortion care, based largely on where a person lives and how they receive health coverage. Since 2010, states have enacted 334 abortion restrictions, including laws that interfere with the practice of medicine by mandating unnecessary procedures and unconstitutional bans on abortion before viability.<sup>19</sup>

In recent years, Members of Congress have introduced federal versions of many of these harmful and unconstitutional measures, with varying levels of success.<sup>20</sup> The restrictions threaten to put abortion care out of reach for many, shut down abortion clinics, shame women for their decisions, and jeopardize their health. Five states now have only one clinic.<sup>21</sup>

Meanwhile, year after year, Congress renews restrictions that deny public insurance coverage for abortion. These policies mostly target poor women, women of color, immigrant women, young women, transgender and gender-nonconforming people, and those who receive health care or coverage through the government or with government assistance.

As an organization that has fought successfully in courts across the country to strike down unconstitutional restrictions on access to abortion care and that has been a leader in proactive efforts to protect our constitutional rights, we call on Congress to pass legislation that reinforces the constitutional right to abortion care and to reject bills that serve only to curtail our rights.

## KEY FACTS

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- According to the most recent national data, 3 in 10 women in the United States will have an abortion by the age of 45.<sup>22</sup> Almost 90 percent of counties in the United States lacked an abortion clinic in 2011, and 38 percent of all women of reproductive age lived in those counties.<sup>23</sup> In many states, much higher percentages of women live in a county with no clinic.<sup>24</sup>
  - More than 60% of women who have abortions already have one or more children.<sup>25</sup> Two common reasons women give for having an abortion are financial inability to afford a child and concern about the impact of having another child on their ability to care for the children they already have.<sup>26</sup>
  - From 2011 to July 2016, states passed 334 restrictions on abortion, accounting for 30% of all abortion restrictions enacted since *Roe v. Wade* in 1973. Each year, states introduce hundreds of bills to restrict access to abortion; between January and July 2016 (when most state legislatures are in session), legislators introduced 445 such provisions.<sup>27</sup>
  - Obstacles to abortion care reduce access to abortion overall, but disproportionately affect underserved populations. Delays produced by obstacles result in increased second trimester procedures and increased health risks associated with later term procedures.<sup>28</sup>
  - When Medicaid coverage for abortion is not available, approximately a quarter of women who would have had an abortion if covered by Medicaid give birth instead.<sup>29</sup>
  - Women who are denied abortion have three times greater odds of being below the federal poverty line two years later than women who obtain abortions.<sup>30</sup>
  - Between 1977 and 2015, violence towards reproductive health providers, patients, and staff resulted in 11 murders, 26 attempted murders, 42 bombings, 185 arsons, 98 attempted bombings or arsons, 404 clinic invasions, 100 butyric acid attacks, 203 physical attacks or batteries, 4 acts of kidnapping, 189 burglaries, 663 anthrax or bioterrorism threats, 634 bomb threats, 516 death threats or threats of harm, 561 acts of stalking, and over 41,000 incidents of hate mail or email, harassing phone calls, or internet harassment.<sup>31</sup>
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## Congress Should Support the Following:

**Women's Health Protection Act:** This proactive measure recognizes that the onslaught of hundreds of abortion restrictions proposed and passed in the states requires a national response, and it ensures that abortion services will continue to be available to people who need them by invalidating laws that single out abortion providers for requirements and restrictions that are medically unnecessary, do not promote women's health or safety, and limit access to abortion services.

**EACH Woman Act:** This proactive measure ensures all women with public or private health insurance will be covered for all pregnancy-related care, including abortion, however much she earns or however she is insured. If a woman gets her care or insurance through the federal government, the Equal Access to Abortion in Health Insurance Act (EACH Woman Act) ensures she will have coverage for abortion. The bill also prohibits political interference with the decisions of private health insurance companies to offer coverage for abortion care.

**Access to abortion for women in the military and military dependents:** Women in the military, who often serve their country far from home, as well as female dependents of military employees, deserve safe access to abortion care and full coverage for that care. However, current law prohibits women on military bases from receiving abortion care in facilities on base, and TRICARE, the military insurance program, will not cover the cost of abortion unless the pregnancy resulted from rape or incest or risks her life.<sup>32</sup> The law should be changed to lift the facilities ban and expand abortion coverage in order to protect the health and well-being of service women and female military dependents and to improve the retention and readiness of the military.

**Investigation and prosecution of extremists who commit acts of violence against abortion providers:** Given the recent surge in violence and harassment of abortion providers, Congress should provide the Department of Justice's Civil Rights Division with increased funding for law enforcement training and the investigation and prosecution of crimes against reproductive health care providers using the Freedom of Access to Clinic Entrances (FACE) Act and other federal criminal statutes, as well as civil litigation. Congress should create an Office to Monitor and Combat Violence Against Reproductive Health Providers within the Department of Justice, with funding to serve as the administrative coordinator of the National Task Force on Violence Against Reproductive Health Care Providers.

## Taking Bold Action

There has been a groundswell of support for advancing a proactive agenda for affordable and available access to safe, legal abortion care. Whether it be through national campaigns or through an uplifting rally that brought thousands to the Supreme Court steps on March 2, 2016, it is clear that this diverse and strong movement is committed to securing reproductive rights and fighting for reproductive justice in the United States.

**ACT!**  
FOR WOMEN ■

**Safe. Legal.**  
**Where we live.**

### Act for Women

Act for Women is a campaign that brings together dozens of local, state, and national organizations committed to raising awareness of the assault on access to abortion care and to demonstrating unity and broad-based support for the Women's Health Protection Act as a federal policy solution. Under the Center for Reproductive Rights' leadership, the campaign sponsors advocacy days in Washington, D.C.; supports state-based work, including tele-town hall meetings, in-district hearings, and municipal resolutions; and provides information, toolkits and other materials about the Women's Health Protection Act to local and state advocates, national organizations, and members of Congress.

**All\***  
ABOVE  
ALL

### All\* Above All

All\* Above All unites organizations and individuals to build support for lifting the bans that deny abortion coverage and restoring public insurance coverage so that every woman, however much she makes, can get affordable, safe abortion care when she needs it. With over 110 organizations, including the Center for Reproductive Rights, and thousands more individuals supporting the effort, the All\* Above All campaign promotes the federal EACH Woman Act and pro-coverage state legislation, engages grassroots communities across the country to fight discriminatory coverage bans, and lifts up proactive, inclusive messaging for affordable abortion access.



### ***Whole Woman's Health v. Hellerstedt:* The Center for Reproductive Rights at the Supreme Court**

On March 3, 2016, the Center for Reproductive Rights successfully argued one of the most important abortion cases to reach the Supreme Court in decades. The Court's decision in *Whole Woman's Health v. Hellerstedt*, handed down on June 27, 2016, reaffirms that the liberty guaranteed by the Due Process Clause encompasses a woman's fundamental right to access abortion care, and it strengthens the constitutional protection for this right by clarifying key aspects of the undue burden standard, the legal test used to judge the constitutionality of abortion restrictions.<sup>33</sup>

In an opinion authored by Justice Stephen Breyer, the Court struck down two deceptive clinic shutdown laws—one that required abortion providers to have admitting privileges at a local hospital and one that required clinics providing abortion to convert to mini-hospitals. Resolving a disagreement in the lower courts about the meaning of the undue burden standard, the Court held that a burden on abortion access is undue if it is not justified by a proportional benefit. As a result, abortion restrictions must be struck down if the burdens they will impose on women exceed the benefits they will provide.

Clarifying that the benefits and burdens that derive from abortion restrictions must be judged by credible evidence, not speculation or junk science, the Court held that the undue burden standard requires rigorous, evidence-based scrutiny of laws that regulate abortion to ensure that they do not violate women's constitutional rights. Texas' clinic shutdown laws could not meet this test. The evidence showed unequivocally that they would impose heavy burdens on women seeking abortion care by forcing the vast majority of Texas abortion clinics to close—thus leading to increased travel distances, fewer doctors, overcrowded conditions, longer waiting time, and less opportunity for individualized medical attention—while providing “few, if any, health benefits.”<sup>34</sup>

Noting that abortion is far safer than many other medical procedures commonly performed in outpatient settings, the Court also made clear that laws may not target abortion for special regulation without justification. It found such justification lacking with respect to the Texas laws, holding that their disparate treatment of abortion was not “reasonably related to preserving women's health, the asserted purpose of the Act.”<sup>35</sup>

Ultimately, the Court concluded that the Texas laws were “unconstitutional on their face” because “[t]hey [would] vastly increase the obstacles confronting women seeking abortions in Texas without providing any benefit to women's health capable of withstanding any meaningful scrutiny.”<sup>36</sup> Its historic decision casts doubt on the constitutionality of similar laws on the books in states across the country.

## Congress Should Oppose the Following:

**Insurance coverage restrictions:** Denying insurance coverage for abortion care creates profound hardships for people across the country. These hardships are exacerbated for lower income women, who in many cases already face significant barriers to receiving high-quality health care. For example, the Hyde Amendment currently withholds federal abortion coverage from women enrolled in Medicaid and other public programs. Congress should reject coverage restrictions such as the Hyde Amendment and efforts to expand such restrictions in federal policy.

**Abortion bans:** Restrictions on abortion prior to viability, such as banning abortion at 20 weeks of pregnancy, are unconstitutional and cruelly disregard the individual circumstances women may face with their pregnancies. Additionally, policies that would restrict abortion based on a woman's reason for seeking it violate her constitutional rights and put barriers between her and the reproductive health care she needs. These reason-based restrictions, such as sex- and race-selective abortion bans, only promote racial and ethnic profiling and stigmatize women of color. All of these restrictions not only deny women the dignity of making their own decisions, but they threaten women's health by blocking access to safe, medically appropriate care.

**Sham laws that target reproductive health care providers:** Laws that target abortion providers for medically unnecessary restrictions and regulations ultimately prevent women from accessing safe, legal abortion services. These laws create obstacles that interfere with clinics' ability to function and to provide care to all who need it, sometimes closing clinics or forcing women to delay their needed abortion care, if they are able to access safe and legal abortion at all. Furthermore, these restrictions increase health care costs, constrain patient choice, and stymie advances in health care delivery.

**Policies that interfere with the provider-patient relationship:** Everyone should be able to trust the information they receive when consulting a health care provider, including when seeking pregnancy-related care and information. Laws that inject politics into the provider-patient relationship intrude into the exam room, violate the trusting relationship built between providers and their patients, put young women at risk, and disrupt a woman's ability to make her own decisions about her pregnancy based on accurate information. Such policies include those that require a woman to undergo unnecessary and intrusive ultrasounds before receiving an abortion, force health care providers to make medically-inaccurate statements to their patients, restrict minors' freedom to travel to other states to obtain abortion care, and mandate parental involvement in a minor's reproductive health decision.

**Pretextual consumer "disclosure" rules designed to disrupt insurance market coverage of abortion:** The Center opposes requirements that prompt deliberately misleading messaging to insurance consumers under the pretext of "disclosure." These politically motivated rules aim to disrupt and discourage insurance coverage of abortion services by establishing cost and benefit notification requirements that are inconsistent with industry practice, such as the "Abortion Insurance Full Disclosure Act."

# III. PROMOTING SAFE, RESPECTFUL, AND NONDISCRIMINATORY MATERNAL HEALTH CARE

While the world is making great strides in improving maternal health outcomes, the United States is the only developed country with a rising maternal mortality (death) ratio.<sup>37</sup> Severe maternal morbidity (negative health impacts attributed to pregnancy and childbirth) are also increasing in this country. For every woman who dies as a result of her pregnancy, approximately 100 women receive a life-threatening diagnosis or must undergo a life-saving procedure.<sup>38</sup> These poor domestic outcomes fall disproportionately on black women, who are nearly four times more likely to die in childbirth than white women and twice as likely to experience severe maternal morbidity.<sup>39</sup> Moreover, studies show that black women are more likely to receive lower quality maternal health care than white women,<sup>40</sup> experience discrimination in health care encounters,<sup>41</sup> and report mistrust and disrespect when seeking health care during pregnancy and childbirth.<sup>42</sup> Given that the Centers for Disease Control and Prevention estimate that at least half of maternal deaths in the United States are preventable, policymakers must address this problem head on.<sup>43</sup>

In partnership with organizations that work on the ground to improve access to maternal health care, the Center for Reproductive Rights is working to address this injustice. In order to advance safe, respectful health care, policies must promote access to nondiscriminatory and quality maternal health care, access to social determinants of health that promote positive maternal and infant health outcomes, and mechanisms to ensure accountability for violations of women's rights during pregnancy and childbirth.

## **Congress Should Support the Following:**

### **Efforts to eliminate racial disparities in maternal mortality and morbidity in the United States:**

A lack of understanding and consensus around the underlying causes of maternal mortality and morbidity make it a challenge to address the problem and emphasize the need for improved data collection and reporting for maternal morbidity and death across the country. Legislation should promote and support effective and comprehensive maternal mortality review boards that provide better data on maternal deaths in each state, including the development of a mandatory federal reporting structure, and lead to recommendations on how to address the problem. Legislation should also support research and collaboration by experts on how to address severe maternal morbidity.



**Pregnant Workers' Fairness Act:** The Pregnant Workers Fairness Act ensures that pregnant workers who need temporary workplace accommodations receive them. In doing so, the bill promotes healthy pregnancies and economic security for pregnant women and their families and promotes workplace fairness.

### **Congress Should Oppose the Following:**

**Punitive measures against or criminalization of pregnant women:** It is becoming increasingly common for women, particularly women of color, to face the threat of criminal penalties for actions taken to end their pregnancies, for failing to seek medical help when they miscarry or have a stillbirth, or for taking illegal substances during pregnancy. Such policies and practices that place women at risk of criminal charges can drive them away from seeking prenatal care and other social services and fail to improve outcomes. Policymakers should work, not only to end such policies and practices, but to denounce the punishment of women who end their own pregnancies and send strong messages that however a woman chooses to end a pregnancy, she must be able to do so safely and effectively without fear of arrest.

# IV. ADVANCING REPRODUCTIVE RIGHTS AND ACCESS TO REPRODUCTIVE HEALTH CARE WORLDWIDE

The World Health Organization estimates that tens of thousands of women around the world die each year because they lack access to safe abortion services.<sup>44</sup> Millions of women lack access to modern contraceptives,<sup>45</sup> and tens of millions of women do not receive adequate maternal health care.<sup>46</sup> Harmful practices, such as child marriage, violate the rights of girls and adolescents and threaten their health and well-being. And women in crisis settings, such as armed conflicts, often face insurmountable barriers in accessing reproductive health care.

While the United States, as a global human rights leader and the largest bilateral foreign assistance donor, is well positioned to help address these challenges, we also face many threats from our own policymakers to take us backward. Congress must vigorously oppose any efforts to compromise reproductive rights globally or diminish access to reproductive health care. Instead, we should ensure that our own foreign assistance efforts comply with human rights norms and use our power to hold governments accountable for the same.

## **Congress Should Support the Following:**

**Foreign assistance programs that include access to safe abortion services:** The Helms Amendment only permits foreign assistance funds to support safe abortion services that are not undertaken as a “method of family planning,” limiting the ability of women and girls to access the reproductive health care they need and contributing to maternal mortality and morbidity. Presidential administrations have implemented the law even more stringently, and prohibited any abortion-related funding other than post-abortion care. Congress should ensure that women assisted by U.S. development efforts are able to access a full range of reproductive health care by repealing the policy—amending the Foreign Assistance Act and omitting the restriction from future funding bills.

**Programs that focus attention on the sexual and reproductive rights of vulnerable populations:** U.S. foreign assistance programs should include a strong focus on ensuring the reproductive rights of vulnerable groups, including women in conflict settings, survivors of gender-based violence, and girls and adolescents.

**Investments in bilateral and multilateral family-planning programs:** Access to modern contraception is not only a human right, but a smart investment of development assistance. Spending one dollar on contraceptive services reduces the cost of pregnancy-related care by \$1.47.<sup>47</sup>

## Congress Should Oppose the Following:

**Reinstatement of the Global Gag Rule:** The Global Gag Rule (also known as the Mexico City Policy), is a failed Reagan-era policy that prohibits overseas civil society organizations that receive any U.S. support from providing women with nearly any access to safe and legal abortion services—even using their own (non-U.S.) funds. Studies have demonstrated that the effect of this policy was not to reduce abortions, but to *increase unsafe abortion* and reduce access to modern contraception for women all over the world. We oppose efforts to reinstate this counterproductive policy.

**Defunding the United Nations Population Fund:** The United Nations Population Fund (UNFPA) is the lead United Nations agency dedicated to promoting sexual and reproductive health and rights. By working in 150 countries – more than twice as many as USAID – UNFPA complements U.S. development efforts. UNFPA’s work include efforts to promote safe motherhood, ensure access to voluntary family planning services, and eliminate obstetric fistula.

**Withdrawing support for multilateral institutions and human rights bodies:** The United States played a crucial role in establishing global bodies like the United Nations (UN) and the Organization of American States (OAS), and U.S. leadership is essential for their continued vitality. The OAS has been a strong voice in support of women’s rights across the Americas, including on pressing issues such as sexual violence, domestic violence, and discrimination. The UN’s human rights bodies are essential for holding countries accountable for their human rights commitments and facilitating dialogue on the state of rights around the world, including reproductive rights.

### Zika: A Public-Health Crisis Highlights the Importance of Reproductive Rights



The emergence of the Zika virus and its particular threat to pregnant women has underscored the importance of full access to reproductive health services globally. Many of the countries facing the most severe threats of Zika’s impact have some of the most regressive laws with respect to reproductive rights. In El Salvador, for example, the government has warned women to avoid pregnancy until 2018 because of the threat of virus, yet the country has high rates of sexual violence, limited access to contraception, and criminalizes abortion in all cases. Disappointingly, the same pattern

exists within the United States—with the most at-risk states also having some of the country’s most restrictive reproductive health laws. Around the world, policy responses and solutions to the Zika crisis must include full support for women’s reproductive autonomy, access to health care information and services, and support and resources for families who may require assistance if their child is born with microcephaly or other disabilities.

# V. STRENGTHENING A FEDERAL JUDICIARY THAT RESPECTS THE RULE OF LAW AND EVERY PERSON'S FUNDAMENTAL RIGHT TO DIGNITY AND PERSONAL AUTONOMY

More than ever, as anti-choice legislatures around the country continue enacting restrictions on access to abortion—and as attacks on women's access to reproductive health care through the Affordable Care Act perpetuate—women are forced to turn to the courts to have their fundamental constitutional rights protected or reinstated. The judiciary will continue to play a key role in the lives of every person in America as it decides just how far lawmakers can go to advance or restrict reproductive rights.

It is imperative that judges nominated and approved to the bench are committed to protecting constitutional rights, including abortion. Candidates for these lifelong positions that impact the lives of women in America should not only possess the necessary requirements of the post—honesty, integrity, character, temperament, empathy, and intellect—but also demonstrate a commitment to civil rights, equal rights, access to justice, and the fundamental constitutional rights of liberty, dignity, and privacy—including the right to safe, legal abortion.

Once the president nominates someone to fill a judicial vacancy, the Senate should move each of the nominees through regular order. The Senate has a constitutional duty to provide “advice and consent” in the confirmation process, and Senate leaders should demonstrate uncompromising respect for this duty. As part of this process, it is critical that Senators question each judicial nominee about their views on the constitutional right to abortion so that they can make a meaningful assessment of the nominee's view on this critical issue. *Roe v. Wade* has been precedent for well over forty years, and it is entirely appropriate that nominees be asked substantive questions about their views on the appropriate level of constitutional protection that should be afforded to women seeking abortions. Senators should insist that nominees provide fully responsive answers, just like they routinely discuss their views regarding constitutional precedent for other important legal principles or cases. Nominees who fail to show a commitment to fundamental constitutional rights such as this should be voted down.

**For more information about these recommendations or to learn more about the Center for Reproductive Rights, please visit our website at [reproductiverights.org](http://reproductiverights.org) or contact our Washington, DC, office at 202-628-0286.**

## Endnotes

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