

***CONTRA ELLA:***  
The Impact of the Dobb's Decision on Latina Reproductive Justice

A Thesis in Political Science and Women and Gender Studies  
by  
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## **Dedication**

Mama,

Tú que has dejado lo familiar para descubrir este sueño envuelto en lo desconocido y la desigualdad, has parido mil sueños y mil demonios. Conozco tus noches de insomnio, y me inspiran en mis días que vienen con más ganas de descansar, pero tu sacrificio me ha enseñado tanto como alumno y me ha hecho más fuerte como hijo tuyo. Es decir, lo que has vivido se manifiesta en mí, por eso te dedico este trabajo. Tu amor siempre me fortalecerá y por ello estaré en deuda contigo en esta vida y en la otra.

- Su fiel admirador,  
leal alborotador,  
y orgulloso hijo,

Edilson Dylan Torres

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## INTRODUCTION

During my childhood, around 2004, a deeply emotional situation involving a beloved family member stands out in my memory. She found herself in need of an abortion, a decision driven by the distressing circumstances of living in a domestically violent environment and struggling to support two children financially but unable to bear the cost of the procedure. Adding to her hardships, she was undocumented, resulting in a lack of health insurance. Her support system was in her home country and could not offer her emotional or financial aid. I remember her vividly describing the anxiety she felt while waiting in abortion clinics, grappling with the economic burden of affording the procedure, and unsure if New Jersey Charity Care would cover it. She ended up leaving every time before they even called her name.

It's unfortunately frequent to encounter narratives like this, where individuals confront the tough choice of not being able to have an abortion due to complex obstructions such as documentation or insurance and not being able to have a child due to financial limitations. Often, the inability to support another child emotionally and financially, coupled with hardships such as a lack of documentation and expenses associated with obtaining an abortion, poses a significant challenge for mothers. The dire situation I retell not only serves as a vivid illustration of the pressing need for accessible reproductive healthcare services but also the imperative to end entrenched obstructions to reproductive justice. Failing to address this issue results in many women being deprived of their agency to freely decide whether or not to embrace motherhood, as their choices are confined by systemic constraints. Rectifying these injustices is paramount to nurturing a society where individuals can be self-determined and self-developed in making informed decisions about their reproductive paths, free from systemic barriers.

This thesis argues that despite the seemingly race-neutral stance of the United States Supreme Court decision in *Dobbs v. Jackson Women's Health Organization*, which concluded that the Constitution does not guarantee a right to abortion, the aftermath of its enforcement has led to a proliferation of state-level restrictions and bans with racially disparate impacts. These measures, particularly prevalent in states with substantial Latina populations, exacerbate systemic inequalities and encroach upon their reproductive justice. Therefore, the central question raised in this study is how the ostensibly race-neutral decision to universally restrict women's reproductive autonomy carries racial undertones that result in notably racist effects.

While *Dobbs* did not explicitly racially profile Latinas, it enabled states that host significant numbers of Latinas who are of reproductive age, to enact barriers such as bans and restrictions that target their demographic. However, bans and restrictions merely compound the systemic constraints that already impede Latina access to reproductive healthcare. Thus, in recognizing the broader material barriers hindering Latina reproductive justice, I delve into the interconnected systemic impediments of their reproductive actualities. Through this examination, I demonstrate that the *Dobbs* decision encroaches upon Latina reproductive justice, actively going *Contra Ella* (against her) and opposing her autonomy in distinct ways.

## ADDRESSING REPRODUCTIVE JUSTICE & INJUSTICE

In *Conceptualizing reproductive justice*, Loretta J. Ross presents several key concepts of reproductive justice Theory, to explain that reproductive freedom necessitates the “examination and elimination of the lasting remnants of White culture’s reproductive violation.” reproductive justice examines how structural class disparities and systemic racism influence individuals' lived realities concerning their reproductive well-being. Ross's quote on America’s DNA being white

supremacist highlights that white supremacy in America isn't just a remnant of past errors; it's woven into the core of America's identity and history. Just as America's identity is shaped by its racialized and colonialist roots, so to is its conception of gender.<sup>1</sup>

The reproductive justice movement was launched by twelve African-American women in June 1994, Toni M. Bond Leonard discusses this in her piece *Laying the Foundations for a reproductive justice Movement*.<sup>2</sup> This thesis is grounded in the framework of reproductive justice, which emerged from a movement that is anti-racist, anti-colonial, and anti-fascist. As such, reproductive justice theory, strategy, and practices serve as the focal point of this interdisciplinary academic investigation. Reproductive justice, as defined by Loretta J. Ross, a key architect in the field, is "based on three interconnected sets of human rights: (1) the right to have a child under the conditions of one's choosing; (2) the right not to have a child using birth control, abortion, or abstinence; and (3) the right to parent children in safe and healthy environments free from violence by individuals or the state."<sup>3</sup> I argue that reproductive justice intersects with race, gender, documentation status, and class and that obstacles to abortion access are rooted in *reproductive injustice*, which disproportionately targets impoverished women and women of color. This injustice aims to control women who lack full constitutional protections, restrict access to healthcare privileges like citizenship, and impose economic barriers that hinder reproductive health choices. These are all matters that intersect with reproductive justice.

Ross delineates reproductive justice as the examination and eradication of the enduring remnants of white culture's reproductive violations. This holds significance due to the historical tethering of the American notion of femininity to motherhood, as observed by Linda Gordon,

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<sup>1</sup> (175) Ross, Loretta, Lynn Roberts, Erika Derkas, Whitney Peoples, and Pamela Bridgewater. *Radical Reproductive justice: Foundation, Theory, Practice, Critique*. New York: The Feminist Press, 2017.

<sup>2</sup> *Ibid.* 39-49

<sup>3</sup> *Ibid.* 290

where the association with motherhood was primarily attributed to affluent white women.<sup>4</sup>

Gordon further illustrates that historically marginalized groups such as slaves, peasants, farmers, the working class, and the colonized were excluded from the narrative of motherhood and, consequently, from the construct of femininity. The persistence of violent reproductive practices from America's past remains deeply entrenched, continuing to fuel today's reproductive injustices long after the abolition of slavery, the eugenics movement, and the displacement of Indigenous peoples. The ongoing reproductive violence experienced by immigrants, Black, and Brown communities serves as a poignant reminder of the United States inability to break free from its extensive history of population control tactics specifically aimed at these marginalized populations. The vestiges of such racist endeavors tether closely to the reality that Dobbs has engendered.

Beyond its legal implications, the Dobbs decision reverberates throughout the broader socio-political landscape, perpetuating systems of oppression that disproportionately affect Latina communities. By upholding state authority over reproductive rights, Dobbs reinforces a historical structural paradigm in this nation, the hegemony of the white supremacist capitalist patriarchy. This system not only facilitates population control but also fuels the dissemination of demonizing rhetoric targeting Latinas and bolsters the political project of whiteness as a democracy. The political project of whiteness encompasses not only favoring democracy for the white population but also extending the privilege of democracy to multiracial individuals but only through the practice of multicultural conservatism, wherein they leverage whiteness to participate in the former.<sup>5</sup> Such rhetoric not only undermines Latina reproductive health but also

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<sup>4</sup> Gordon, Linda. *The Moral Property of Women: A History of Birth Control Politics in America*. University of Illinois Press, 2002.

<sup>5</sup> NPR. 2021. "Understanding Multiracial Whiteness and Trump Supporters." *NPR*, January 24, 2021. <https://www.npr.org/2021/01/24/960060957/understanding-multiracial-whiteness-and-trump-supporters>.



poses a threat to their overall well-being, as it fosters not only an environment of hostility and marginalization but also one where they may never have the ability to be properly self-developed and self-determined individuals.

The ramifications of the Dobbs decision extend beyond its immediate scope, particularly concerning its impact on Latina communities. Of particular concern is its creation of a disparate impact disguised under the veneer of race neutrality. While seemingly impartial, the decision overlooks the intricate realities of racial disparities in access to reproductive healthcare. Latinas, already grappling with systemic barriers to healthcare access, are poised to bear the brunt of this impact. By disregarding the intersectional dynamics at play, the decision perpetuates inequality and exacerbates existing healthcare disparities. Dobbs' endorsement of state autonomy in crafting abortion policies raises grave concerns, especially in states with significant Latina populations. The newfound freedom for states to enact their own abortion laws has curtailed reproductive rights and limited access to essential healthcare services for Latinas. The implementation of restrictive measures in states with substantial Latina demographics is alarming, as these policies could severely impede Latinas' autonomy in making decisions about their reproductive health, further entrenching disparities and jeopardizing their overall well-being.

Bell Hooks introduced and defined the term white Capitalist Patriarchy to elucidate how racism, capitalism, and patriarchy intertwine to maintain power and dominance, particularly over marginalized groups such as women and people of color.<sup>6</sup> She emphasizes how these systems intersect and reinforce each other, perpetuating oppression and inequality. Hooks' definition underscores the interconnectedness of various forms of oppression and emphasizes the need for intersectional analysis to understand and challenge systems of power effectively. Consequently,

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<sup>6</sup> Hooks, Bell. (2000). *Feminist theory: From margin to center*. Pluto Press

the imperative to study reproductive injustice is further emphasized, as it is perpetuated by the intersecting mechanisms of oppression produced by the white Capitalist Patriarchy. Ross asserts the crucial importance of studying reproductive justice, stating that "white Supremacy is not a resurgent, anachronistic characteristic or symptom of America, but its DNA."<sup>7</sup>

It is essential to delve into the intersections of laws, public policies, economics, and social relations to comprehend the depth of reproductive injustice experienced by Latinas. In her study of American history and Black women's activism against settler colonialism, xenophobia, and enslavement, Loretta J. Ross elucidates in *Conceptualizing Reproductive Justice Theory*, that “the pursuit of white racial purity created a hierarchy of subordination continuously affecting laws, public policies, economics, and social relations.”<sup>8</sup> Despite their ostensibly race-neutral nature, these reproductive policies have adversely affected Latinas. Thus, it is imperative to scrutinize the intersections where disparities emerge to fully grasp the reproductive injustices that target Latinas. State policies post-Dobb’s may have appeared impartial, but analyses by several scholars like Josefina Flores Morales and Julia Hernandez Nierenberg, reveal how restrictive state abortion policies impact Latinas, ultimately perpetuating systems of white racial purity as Ross has identified.<sup>9</sup>

## CONTROLLING REPRODUCTION

Considering the entrenched nature of reproductive injustice as a classicist, racialized, and gendered system within America's historical context, it is imperative to reflect on why the past

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<sup>7</sup> Ross, *Reproductive justice: Foundation, Theory, Practice, Critique*, 188

<sup>8</sup> *Ibid.* 189

<sup>9</sup> “Differential Rights: How Abortion Bans Impact Latinas in Their Childbearing Years.” 2022. Latino Policy & Politics Institute. December 13, 2022. <https://Latino.ucla.edu/research/abortion-bans-Latinas/>.

continues to shape the present. The origins of population control mechanisms can be traced back to the legal system. reproductive oppression persists as a lingering consequence of the transatlantic slave trade and the genocide of Indigenous peoples, partly because manifest destiny and slavery were inherently woven into legal frameworks aimed at enriching white slave owners, traders, and the state, ultimately upholding white supremacy. Ricki Solinger and Loretta J. Ross in *reproductive justice: An Introduction* offer a stark illustration of this with the overturning of the English common law tradition in the 1662 Virginia colony.<sup>10</sup> The legal principle of *partus sequitur ventrem*, incorporated into slavery laws, dictated that the status of children followed that of their mothers. Consequently, offspring born to enslaved mothers inherited their mother's status as chattel slaves. This effectively controlled the growth of the free and unfree population and ensured the perpetuation of the slavery regime. As articulated by Ross and Solinger the 1662 Virginia colony enshrined the legality of white supremacy, "the law made the fertility of the enslaved women into the essential, exploitable, colonial resource."<sup>11</sup> Leading to the accumulation of wealth and the reinforcement of white supremacy, an enslaved woman's ability to bear children became a tool for exploitation by her slave owner.

Reproductive control has long been central to the status of women in America, with the principles of the white Capitalist Patriarchy significantly shaping this domain and perpetuating reproductive injustice as an inherent system. This reality disproportionately has and continues to marginalize, the poor, black, and brown women of the United States. The historical context of the land we inhabit reveals a longstanding intolerance for what is perceived as racial degeneracy. Additionally, the intersection of degeneracy may also encompass ableism in America's efforts to

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<sup>10</sup> Ross, Loretta J., and Rickie Solinger. *Reproductive justice: An Introduction*. 1st ed. University of California Press, 2017.

<sup>11</sup> *Ibid.* 18

uphold the Aryan race. The eugenic movement's primary objective was not only to preserve the dominance of white America but also to ensure the nation's perceived strength and vitality.

Supreme Court Justice Oliver Wendell Holmes in 1927, wrote the majority opinion in the Supreme Court's affirmative decision of *Buck v. Bell*. In the landmark case on eugenics, Justice Oliver Wendell Holmes states that "It is better for all the world if, instead of waiting to execute degenerate offspring for crime or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind."<sup>12</sup> Negative eugenics, as developed in the United States and Germany, played on fears of "race degeneration." At a time when the working-class poor were reproducing at a greater rate than successful middle- and upper-class members of society, these ideas garnered considerable interest. One of the most famous proponents in the United States was President Theodore Roosevelt, who warned that the failure of couples of Anglo-Saxon heritage to produce large families would lead to "race suicide."

The colonial imperative of white preservation intricately intertwines with the enduring legacy of reproductive injustice experienced by Indigenous, Black, Latino, and economically disadvantaged white communities. America's early 19th century white male patriots, historically disadvantaged white communities. America's early 19th century white male patriots, historically demanded that maternity be enforced by white Protestant women, perpetuating reproductive inequities across intersecting lines of race, gender, and socioeconomic status. Leslie J. Reagan delves into this historical dynamic, highlighting a significant shift in attitudes towards abortion during the early 19th century. Initially, laws lacked provisions to punish women for inducing abortions. However, as middle-class married women increasingly sought out abortions, this challenged established gender norms. Coupled with the changing social makeup of the nation

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<sup>12</sup> "Eugenics in Virginia: *Buck v. Bell* and Forced Sterilization." n.d. Eugenics: Three Generations, No Imbeciles: Virginia, Eugenics & *Buck v. Bell*. <https://exhibits.hsl.virginia.edu/eugenics/index.html>.

due to immigration, American men of the same socioeconomic status began to experience growing anxieties over these developments.

Reagan explains that because birth rates among Yankees had declined by the mid 19 century while immigrants poured into the country “many would out-populate native-born Yankees generating a threat to their political power.”<sup>13</sup> The growing rate of immigration spurred white nativists to control the population, pushing on an offensive front that would begin the construction of the eugenics movement. Dr. Horatio R. Storer, the prominent figure in the medical crusade against abortion, envisioned the expansion of civilization towards the West and South by native-born white Americans, expressly excluding Mexicans, Chinese, Blacks, Indians, or Catholics. He posed the question, "Shall these regions be filled by your own children or by those of aliens?" and emphasized, "This is a question our women must answer; upon their loins depends the future and destiny of this nation."<sup>14</sup> Storer's agenda of safeguarding the white race for the betterment of America's future laid the foundation upon which contemporary urban theories of white race preservation now stand.

In 1927, when the United States Supreme Court in *Buck v Bell* upheld the constitutionality of the Virginia Eugenic Sterilization Act, the onslaught of those who were not white and rich was only beginning. Carrie Buck was an impoverished white woman, hailing from a family with a history of alcoholism. She was deemed intellectually impaired by the state, and when she was tragically raped and impregnated the state saw it fit to justify her sterilization, due to their labeling of her as "feeble-minded" which was only because the state declared her mother was mentally impaired. Buck's case legalized and catapulted America's Eugenics movement to

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<sup>13</sup> (11) Reagan, Leslie J. *When Abortion Was a Crime: Women, Medicine, and Law in the United States, 1867-1973, with a New Preface*. 1st ed. University of California Press, 2022.

<sup>14</sup> *Ibid.* 11

target Black women and Latinas all throughout the nation and Michelle Goodwin details this as well in how the state operationalized around the core root of “social judgments about the poor.” (Goodwin 2020, 24) In *Policing The Womb*, Goodwin details that in North Carolina, nearly 30 percent of forced sterilizations were on children under age 18, she details that of this 30 percent of forced sterilizations “60 percent comprised of Black people.”<sup>15</sup> Goodwin reveals that a lawsuit filed on behalf of sterilization victims Mary Alice and Minne Relf by the Southern Poverty Law Center uncovered disturbing statistics since the sisters’ sterilization in 1974.<sup>16</sup> The district court determined that an estimated 100,000 to 150,000 impoverished individuals were subjected to annual sterilizations under federally funded programs. Additionally, many others were coerced into consenting to sterilization procedures under threat of losing their welfare benefits.

California emerged as a pioneer in "social engineering" and eugenics during the early 1900s, with approximately 20,000 individuals subjected to sterilization in state institutions for the "mentally ill and disabled" between the 1920s and 1950s. Novak and Lira's 2018 study delves into the racial dynamics of sterilization in California, focusing on Latinx individuals among the affected population.<sup>17</sup> Their findings reveal a disproportionate impact on the Latinx community in California, particularly of Mexican origin, with Latino men being 23% more likely to be sterilized and Latina women 59% more likely to undergo sterilization compared to their non-Latinx counterparts. In her book, *Laboratory of Deficiency* Natalie Lira delves into the categorization of the "defective" working-class Chicano population in California. She argues that

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<sup>15</sup> (25) Goodwin M. *Policing the Womb: Invisible Women and the Criminalization of Motherhood*. Cambridge University Press; 2020.

<sup>16</sup> “Relf v. Weinberger.” n.d. Southern Poverty Law Center. <https://reproductive.splcenter.org/seeking-justice/case-docket/relf-v-weinberger>.

<sup>17</sup> Novak NL, Lira N, O'Connor KE, Harlow SD, Kardias SLR, Stern AM. Disproportionate Sterilization of Latino Under California's Eugenic Sterilization Program, 1920-1945. *Am J Public Health*. 2018 May;108(5):611-613

the system of disability, established by predominantly white upper and middle-class reformers in California, capitalized on existing ideologies of race, gender, and class.<sup>18</sup>

Lira draws on Nirmala Erevelles's conceptualization of disability as an "organizing ideological force" utilized to "structure social hierarchies in their respective contexts," highlighting its constructive role in shaping societal attitudes and practices of sterilization.<sup>19</sup> The Lanterman Developmental Center, originally known as the Pacific Colony, was a public psychiatric hospital and institution catering to individuals with developmental disabilities. Lira explains that in 1917 the center was built to cater to those who were classified as "feeble-minded" Chicano, Black, and Native American youth and were labeled here as such, justifying their confinement and later sterilization.<sup>20</sup> But at the turn of the twentieth century as southern and eastern European immigration started seceding, Los Angeles had the largest Mexican population, Nathalia Molina indicates that at this moment "brownness came to signify the most important threat to the racial hegemony of white native-born Americans" pushing the white nativist agenda of race suicide.<sup>21</sup> This rhetoric holds significance as it sparked a broader discourse around categorizing Chicanos as carriers of disease and more. However, Chicanas encountered an added layer of complexity. Chicana historians have demonstrated that early American imperialists delineated Mexican women as separate entities, depicting them as "other" and inferior because of perceived sexual and reproductive deviance.

Antonia I. Castañeda describes how Anglo-American male writers assigned to Mexican women the same social value based on gender-specific norms and roles they assigned to white

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<sup>18</sup> Lira, Natalie. *Laboratory of Deficiency: Sterilization and Confinement in California, 1900–1950s*. 1st ed. Vol. 6. University of California Press, 2022.

<sup>19</sup> (14) Nirmala Erevelles, *Disability and Difference in Global Contexts: Enabling a Transformative Body Politic*. New York: Palgrave MacMillan, 2011.

<sup>20</sup> Lira, *Laboratory of Deficiency: Sterilization and Confinement in California, 1900–1950s*, 16

<sup>21</sup> (119) Molina, N. 2006. *Fit to Be Citizens?: Public Health and Race in Los Angeles, 1879-1939*—University of California Press.

womanhood in the United States. However, for Mexican women, the dimension of race was also integral to the judgment of their virtue and morality.<sup>22</sup> Castañeda elaborates “In terms of women, America’s racial bias against Mexicanos coalesced with the moral judgment of women and hardened into a stereotype of Mexicanas as both racially and morally inferior, with one reinforcing the other in a most pernicious way.” Janet Lecompte details how imperialists viewed Mexican women as sexual deviants, William Watts Hart Davis a decorated general and observer of the Mexican-American war stated that “the standard of female chastity is deplorably low.” Lecompte recounts another visitor to New Mexico, Alfred Waugh, who described his interactions with Mexicanas by stating that “the women deem chastity no virtue.” The prevailing stereotypes surrounding the morality of Mexican women not only encapsulated both racial and sexual dimensions but also formed the bedrock upon which moral evaluations of the broader Mexican community were built.

What makes these essentialized racist depictions even more egregious is how it imposed on Latinas profound consequences, particularly evident in the disproportionately high rates of sterilization among Mexican-origin individuals. Natalie Lira reveals that an analysis of over two thousand sterilization requests processed by Pacific Colony between 1928 and 1951 shows a stark disparity in the treatment of Mexican-origin inmates, with a significantly higher rate of sterilization than their representation in the California population. She notes, “From 1928 to 1951, Spanish-surnamed patients made up approximately 25 percent of all of the Pacific Colony sterilization requests processed during this period, and Mexican-origin youths were targeted for sterilization.”<sup>23</sup> Lira further highlights that, on average, Spanish-surnamed patients were

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<sup>22</sup> Castañeda, A., and L. Heidenreich. 2014. *Three Decades of Engendering History: Selected Works of Antonia I. Castañeda*. University of North Texas Press.

<sup>23</sup> Lira, *Laboratory of Deficiency: Sterilization and Confinement in California*, 70



sterilized at a young age, with women at the age of eighteen years and men at sixteen years, over the twenty-two-year period. Early American nativists regarded the reproduction of anything non-white as a societal burden, viewing immigrant motherhood as a threat to the nation's well-being, thereby enforcing sterilization under those norms. Natalie Lira discusses how prevalent the fear of immigrant women's reproduction was, noting that in addition to concerns over the dilution of Anglo-American racial purity, nativists argued that "immigrant mothers and their American children represented an undue burden on the nation's economy because they were likely to become a public charge." <sup>24</sup>

Because the conception of the female gender was centered on motherliness along with class and race, concerns predating the history and legalization of birth control were centered on the paranoia that white women would abandon their womanliness by forsaking their "maternal destiny."<sup>25</sup> The creation of white femininity under patriarchy is inseparably linked to motherhood and white supremacy and Gordon allows us to see in detail what the "fair sex" did and did not consist of. I detect a connection between the fear of losing white motherhood discussed by Abby L. Ferber in *White Man Falling* and her argument suggesting a disdain for feminism. Ferber posits that feminism is viewed negatively because it disrupts gender and racial boundaries by examining gender-based hierarchy and inequality. <sup>26</sup> Ferber elaborates that white supremacists see that "any attack on what has been constructed as natural such as the natural gender order is synonymous to a threat of natural racial order." <sup>27</sup>

Ferber's analysis underscores not just feminism's scrutiny of gender-based hierarchy and inequality was a target for attack but also its engagement with the interconnected dimensions of

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<sup>24</sup> *Ibid.* 77

<sup>25</sup> Gordon, *The Moral Property of Women*, 10

<sup>26</sup> (132) Ferber, A.L. 1998. *White Man Falling: Race, Gender, and White Supremacy*. Rowman & Littlefield.

<sup>27</sup> *Ibid.* 135

race that contribute to systemic inequities. One way this was most seen was during the radicalization of abortion reform during the 1960s, where racist and patriarchal ideologies surrounding motherhood and femininity were utilized to introduce debates on population control methods, as noted by feminist scholar Leslie J. Regan. Population controllers entered the abortion discourse, favoring legal abortion to combat “overpopulation.”<sup>28</sup> In *When Abortion Was A Crime*, Regan indicates that the rhetoric of population controllers was about designating the problem in low-income and non-white neighborhoods and developing countries. “Population control programs did not emphasize women’s rights to make decisions about childbearing, but imposed government-sponsored programs to cut the fertility of the poor.”<sup>29</sup> The definitions of motherhood, femininity, and reproduction, shaped by race, class, and citizenship, maintain an enduring connection to the cis-hetero white capitalist patriarchy. Today’s methods of birth control and reproductive injustice reflect this immutable link. They underscore the perpetual need of the cis-hetero white capitalist patriarchy to reinforce white supremacy, patriarchy, and capitalism.

Birth control has always had an inseparable relationship with capitalism, politics, patriarchy, and racism. The organized movement for birth control is a matter of male supremacy as well as economics, Linda Gordon details in *The Struggle for Reproductive Freedom: Three Stages of Feminism*, that birth control “threatened not just the sexual subordination of women but also the entire relations between sexes, or what has been called the sex-gender system.”<sup>30</sup> This is because the legalization of forms of birth control such as contraception defended the separation of sex from reproduction and supported women’s sexual freedom as well as their reproductive

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<sup>28</sup> (230) Reagan, Leslie J. *When Abortion Was a Crime: Women, Medicine, and Law in the United States, 1867-1973, with a New Preface*. 1st ed. University of California Press, 2022.

<sup>29</sup> *Ibid.* 230

<sup>30</sup> (109) Gordon, Linda. *The Struggle for Reproductive Freedom: Three Stages of Feminism*, 1979

self-determination. The patriarchy predating birth control methods had embedded motherliness into the very definition of femininity.<sup>31</sup>

Therefore when forms of birth control became legalized the notion of femininity fixed to motherliness inherently was separated, destabilizing the definition of femininity the patriarchy had embedded into society. Gordon explains this best when describing how the Victorian sexual system oriented motherliness to be a trait of feminity trickling down to social structures and divisions of labor. In *The Moral Property of Women*, Gordon expands the concept of birth control beyond its role in male supremacy and economic structures, emphasizing its intersection with sexual and racial politics. It operated within a double standard, where women, considered the "fair sex," were expected to be shielded from "dirty" topics like money, politics, and sex.<sup>32</sup> Delicacy, fragility, paleness, and softness were the official feminine qualities. This reality disproportionately has and continues to marginalize, the poor, black, and brown women of the United States. The historical context of the land we inhabit reveals a longstanding intolerance for what is perceived as racial degeneracy. Additionally, the intersection of degeneracy may also encompass ableism in America's efforts to uphold the Aryan race. The eugenic movement's primary objective was not only to preserve the dominance of white America but also to ensure the nation's perceived strength and vitality.

"Race suicide," arguably a component of today's replacement theory, represents a pervasive ideology that adds a layer to the framework of my investigation. This concept sheds light on how addressing reproductive injustice is intertwined with the fear of replacement in white America today, while also reflecting on the origins of this fear dating back to the country's inception. All this to say that just as much as reproductive injustice is in conversation throughout

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<sup>31</sup> Gordon, *Moral Property of Women*, 10

<sup>32</sup> *Ibid.* 9

this paper so are the dynamics that influence the creation of reproductive injustice such as race, class, documentation, and gender. The foundation of this investigation was prompted by a line of questioning that was propelled further when the Dobbs decision officially repealed Roe. It was hard to fathom how the consequences of dismantling 50 years of federal legal protection, thereby enabling individual states to restrict or outright prohibit abortion rights, didn't seem sudden but rather deliberate and calculated. The enduring remnants of past sterilization abuses persist in today's restrictions on reproductive access. I recount early imperial assertions concerning Chicanas to underscore the profound impact of the sexual and reproductive otherness ascribed to Mexican women within the context of American xenophobia, nativism, and immigration restriction.

## RESEARCH DESIGN

The foundation of this investigation was prompted by a line of questioning that was propelled further when the Dobbs decision officially repealed Roe. It was hard to fathom how the consequences of dismantling 50 years of federal legal protection, thereby enabling individual states to restrict or outright prohibit abortion rights, didn't seem sudden but rather deliberate and calculated. Rooted in my commitment to intersectionality within Political Science and Women's and Gender Studies, this thesis expands upon the groundwork laid by scholars like bell hooks and organizations like INCITE. It embodies my focus in both academic realms, as I've learned that the personal is political. I advocate for a nuanced understanding of politics that transcends the second-wave feminist notion, initially coined by Carol Hanisch. This entails a thorough

examination of systemic oppression experienced by marginalized groups, particularly Latinas, who are at the center of this analysis. As said by Andrea Lee Smith et al., for the organization INCITE in their anthology *The Color of Violence* “When we shift the center of analysis, there is no permanent center of organizing. Rather, by constantly shifting the center to communities that face intersecting forms of oppression, we gain a more comprehensive view of the strategies to end all forms of violence.”

When beginning my research I had nuanced questions about abortion rights. These inquiries gradually evolved into deeper analytical questioning, which formed the foundation of my thesis investigation. Initially, I sought to comprehend the motives behind federal and state governments exerting authority over reproductive rights, examining the implications of the Dobbs decision for women and evaluating whether it perpetuated reproductive injustice. As I delved deeper, I recognized the imperative to examine the multifaceted barriers—economic, cultural, political, and material—confronting Latina women in their need for abortion access, particularly noting that states with significant Latina populations often enacted the most stringent abortion bans or restrictions. Because the Dobbs decision led me to investigate whether conservative influences were a factor in state abortion bans or restrictions, It also led me to consider if existing disparities such as income gaps and language barriers were relevant to the root causes of reproductive injustice. By exploring such obstructions as issues correlated to reproductive injustice, I understood that reproductive rights for Latinas encompass an analysis of multifaceted factors. For example, I considered how the experiences of undocumented versus documented Latinas seeking abortion services may differ in experience but still coincide with the broader issue of reproductive injustice. Ultimately, I gravitated toward guiding questions that encapsulated the essence of my research structure: How do state-level abortion and contraception

policies, shaped by the white Supremacist Capitalist Patriarchy, disproportionately burden Latina women? What specific barriers do Latinas face, and how do we measure their impact?

When examining the population composition of the country, it becomes apparent that half of the U.S. Hispanic population resides in the Western and Southwestern border states. Pew Research Center demonstrates that while half of the U.S. Hispanic population resides in Southwest border states, the most rapid population growth among Hispanics occurs in other regions. Hispanics have significantly contributed to the growth of the U.S. population over the past decade. Between 2010 and 2022, the U.S. population expanded by 24.5 million individuals, with Hispanics constituting 53% of this increase. This demographic group has had a larger share of population growth than any other racial or ethnic group during this period.<sup>33</sup>

When I formulated the research design for this investigation, I carefully selected states with the highest Latino population density. The primary rationale behind this choice was to provide a comprehensive understanding of the status of abortion rights within regions heavily populated by Latino. The states chosen for analysis—Arizona, Texas, and New York—were strategically selected to ensure both a significant Latino diaspora and a diverse range of abortion policies. By encompassing states from the South, Southwest, and Northeast regions, the research aimed to capture a broad spectrum of experiences and perspectives. New York, with its substantial Latino population and notably liberal abortion policies, emerged as a pivotal focal point for in-depth investigation. Its juxtaposition with Arizona and Texas, which exhibit contrasting political climates and legislative approaches to abortion, facilitated a nuanced

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<sup>33</sup> Blazina, Carrie. 2020. "Hispanics Have Accounted for More than Half of Total U.S. Population Growth since 2010." Pew Research Center. July 10, 2020. <https://www.pewresearch.org/short-reads/2020/07/10/hispanics-have-accounted-for-more-than-half-of-total-u-s-population-growth-since-2010/>.

analysis of the interplay between demographic factors, political ideologies, and reproductive rights legislation.

Furthermore, the alignment of the selected states with distinct political leanings—Texas (red), New York (blue), and Arizona (purple)—added a layer of complexity to the research design. This enabled the exploration of how political dynamics and ideological affiliations influence abortion policy formulation and implementation within different sociopolitical contexts. Overall, the deliberate selection of states with diverse demographic compositions and political landscapes underscored the commitment to conducting a rigorous and comprehensive investigation into the intersection of Latina demographics and abortion rights across the United States.

Leading me to investigate reproductive policies with seemingly race-neutral implications but differential impacts, this finding prompted me to contemplate how policies, ostensibly targeting women broadly, disproportionately affect Latinas under both state and federal jurisdictions. After selecting the three states for investigation, I proceeded with a meticulous process to establish a comprehensive framework for understanding the disparities faced by Latinas. Recognizing the complexity of the issue, I sought to delve deeply into various aspects that could potentially impact access to abortion care. With this in mind, I devised a multifaceted set of criteria aimed at capturing the intricate web of challenges encountered by Latinas in navigating reproductive healthcare systems. Each criterion was carefully chosen to encompass a wide range of factors that could influence the availability, accessibility, and affordability of abortion services for Latinas. The inclusion of seven variables, including household income, education, immigration status, immigration rights, employment status, occupation sector, language, and reproductive services distance, facilitated a more comprehensive examination of

the divergent effects of ostensibly race-neutral abortion policies, tailored to scrutinize how these disparities may manifest.

## METHOD IMPLEMENTATION

In delving into the factors influencing individuals' decisions access to abortion, it becomes evident that numerous existing barriers significantly impact women's reproductive choices. This study aims to illuminate these barriers and their tangible hardships, which vary depending on women's state of residence. Of particular concern are the pronounced and aggressive impacts observed in the South and Southwest regions, where significant regional disparities in access to reproductive healthcare have become glaringly apparent, especially following the Dobbs Decision. These states have implemented some of the most restrictive abortion policies, including bans and 15-week restrictions, further exacerbating the challenges faced by women seeking abortion services.

The data collected in this study was selected to illustrate the varying policies on abortion across different states and to highlight the intersections where abortion becomes inaccessible for Latinas. In conducting my investigation, I leaned heavily on qualitative methods, such as detailed observations and in-depth state case studies, to delve into the complex intersecting structures surrounding abortion accessibility within the Latina demographic. This approach allowed me to capture the intricacies and nuances of abortion accessibility. Overall this approach laid the groundwork for demonstrating the various levels of disparities politically, economically, and socially.



I place this thesis in alignment with Solinger's argument regarding the interconnection of choice and resource accessibility, because this study underscores how the Pro-Choice framework can inadvertently reinforce a hierarchy among women, favoring those with the financial means to exercise authentic choices. Consequently, an examination of geographic location becomes paramount to discerning the disparities arising from state policy and access to healthcare services. The criterion of reproductive Services/Distance to Clinic plays a pivotal role in this analysis, aiming to gauge the availability of abortion clinics and reproductive healthcare facilities across different regions, while also highlighting potential transportation barriers faced by Latinas seeking these services. Moreover, alongside socioeconomic and demographic factors, Employment Status and Occupation Sector emerge as crucial variables of interest. These variables offer insights into the intersectionality of reproductive health disparities within labor market dynamics, employment patterns, and workplace policies, all of which can significantly impact Latinas' access to comprehensive reproductive healthcare.

The variables within my criteria are inherently tied to a specific point in time, a decision made in consideration of the nature of my data collection. This time horizon was carefully chosen to align with the period surrounding the Dobbs Decision, as it was deemed most pertinent to the analysis. However, it's important to note that the data collected does not represent the year 2023, as sufficient research for that year has yet to be produced. As a result, the majority of my data collection, with the exception of reproductive Services/Distance to Clinic, has been sourced from the year 2022. While this temporal limitation is acknowledged, I maintain the belief that it does not significantly impede the development of my argument.

The consistency of stringent abortion policies diminishes the significance of pinpointing the precise numerical values or percentages of the criteria in the specific year of data collection.

This is because, barring exceptional circumstances like COVID, the data concerning Latinas is unlikely to undergo radical shifts within a single year. Additionally, I strive to address this factor by utilizing data adjusted for inflation to ensure its relevance and accuracy across timeframes. For example, regardless of whether a Latina household had a high or low income in Texas during 2022, the restrictive abortion policies in place would have posed significant barriers to accessibility for Latinas across various income brackets. This dynamic serves as a prime example of how certain variables, despite their temporal limitations, exhibit fluctuations that are worth exploring and discussing. By acknowledging and addressing such limitations, I aim to ensure the integrity and robustness of my analysis, ultimately contributing to an understanding of the complexities surrounding reproductive injustice among Latinas. The data I employed, primarily drawn from survey sources such as the American Community Survey conducted by the Census Bureau, the Kaiser Family Foundation, and the Organization for Status of Women in the States, helped me consider the economic and social aspects of each state-by-state case. Additionally, for policy and reproductive health services available state by state, I utilized the Find Law resource site and the Organization Plan C.

## LIMITATIONS

The parameters guiding this thesis delve into multifaceted considerations, notably constrained by factors such as time and the accessibility of sources, with the foremost challenge lying in grappling with the complexities inherent in applying racial classifications to Latinidad. I found that this challenge gains particular significance in the discourse surrounding Latinas and their racial identity, often encompassing a spectrum of racial backgrounds under the broad

designation of "Latinas." This approach is necessitated by limitations in data collection, which hindered a comprehensive understanding of the presence of Black Latinas within states characterized by significant Latino populations. Navigating the intricate landscape of Latinidad through quantitative analysis presents a formidable undertaking, given the diverse racial makeup of the Latinx community, with each subgroup confronting distinct obstacles in accessing abortion services. An insightful observation made at the outset of this endeavor was the dearth of scholarly work into whether Black Latina citizens/undocumented or white Latina citizens/undocumented faced more stringent restrictions and bans on reproductive rights. It is imperative to acknowledge that effectively addressing the persistently high rates of Black maternal mortality demands a deeper exploration of the intersection between Latinidad and the reproductive health needs of Black women. This requires a nuanced approach to data collection that recognizes the unique experiences of Black Latinas, shedding light on how state-imposed limitations perpetuate reproductive injustice within the context of their marginalized identities.

While my focus primarily centers on the challenges faced by Latinas in accessing reproductive abortion healthcare regardless of binary racial categories, it's essential to address the broader issue of reproductive injustice, particularly concerning Black Latina communities and indigenous communities as well, who have to navigate the additional intersection constructed structures of blackness and indigeneity in reproductive injustice. The lack of research dedicated to investigating the intersection of reproductive injustice within the black Latina diaspora deserves to be addressed not only just in reproductive justice theory but also in other socio-political academic studies and beyond. To mitigate this, I selected data sources that tried to address these limitations such as my data acquisition approach within the American Community Survey to align with the criteria for identifying material barriers encountered by

Latinas seeking reproductive healthcare in 2022. Specifically, I utilized the "for Hispanic or Latino families of any race" setting to ensure that the data captured individuals who voluntarily identified as Latino in the census, thereby striving to enhance the accuracy and relevance of the findings within the Latina demographic.

By navigating these constraints and refining the data collection process, the study aims to provide comprehensive insights into the specific challenges Latinas encounter in accessing abortion services. Recognizing the diverse spectrum of reproductive healthcare services is essential to understanding these challenges fully. While the thesis primarily focuses on abortion, it does not overlook broader reproductive health issues affecting Latinas. The decision to emphasize abortion accessibility stems from increased state restrictions and bans that have happened since the outset of Dobbs. Given unlimited time and resources, an expanded study would focus on the Latino diasporas most affected by reproductive injustices. Initially, the intention was to examine the largest Latina diaspora within each state to illuminate diverse cultural impacts and historical targeting, such as Puerto Ricans and Mexicans who were victims of state eugenic policies and oppressive reproductive health structures aimed at sterilization and racial labeling. It is essential to note that this work does not seek to essentialize Latinas or oversimplify the complexity of their diasporic identities. Rather, it recognizes the significant variations in their material circumstances across cultures and within different state contexts, particularly concerning the implications of abortion.

Finally, because Latina abortion access has become increasingly targeted through the implementation of state policies, it is imperative that we not only address but also understand this issue through a lens that transcends the traditional neo-liberal analysis that focuses on individual rights and liberties. Merely adhering to the dichotomy of pro-choice versus pro-life fails to

capture the complex realities faced by Latinas, as it often overlooks the intersecting factors of race, ethnicity, and socioeconomic status. To truly embrace reproductive justice, we must move beyond this binary framework and recognize the unique challenges and barriers Latinas encounter in accessing reproductive healthcare. Understanding abortion access through a reproductive justice lens is essential for achieving justice, particularly for Latina women as it is crucial for their self-development and self-determination in matters of reproductive health. By embracing reproductive justice, we can work towards dismantling systemic barriers and advocating for equitable access to comprehensive reproductive healthcare for all women, regardless of race or ethnicity, and ensure that policies never again go *contra ella*.

## CHAPTER ONE: DATA DISSECTION - PRESENTING THE REALITIES OF WHAT IT MEANS TO GO CONTRA ELLA

Presently, the urgency of reproductive injustice is underscored by stark statistics. Although my state case studies focus on New York, Texas, and Arizona, the reality is that nearly 6.7 million Latinas, constituting 43 percent of Latinas aged 15-49 in the United States, reside in the 26 states that have enacted abortion bans or restrictions, making them the largest group of women of color affected by such prohibitions. Among these Latinas, nearly half are already mothers, including over 850,000 mothers with children under the age of three. Research indicates that restrictions on abortion care adversely impact the economic stability and well-being of existing children.<sup>34</sup>

Additionally, more than 3 million Latinas in these states experience economic insecurity, exacerbating their vulnerability to abortion restrictions, particularly as low-income individuals face greater barriers to accessing care. Furthermore, in these states, over 1 million Latinas report limited English proficiency, primarily speaking Spanish, which further complicates their access to culturally competent abortion care. The implications of the Dobbs ruling extend beyond Latinas to encompass Black, Native, Asian American, Native Hawaiian, Pacific Islander, multiracial Latinas, and individuals identifying with other races. This underscores the wide-ranging and profound repercussions of abortion restrictions across diverse communities, highlighting the paradox inherent in democracy's promise of security for its citizens in exchange for individual rights, which nonetheless remains unfulfilled.

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<sup>34</sup> “State Abortion Bans Threaten 6.7 Million Latinas.” 2023. National Partnership for Women & Families. October 3, 2023. <https://nationalpartnership.org/report/state-abortion-bans-threaten-Latinas/>.

The aim of this chapter is threefold: Firstly, it seeks to elucidate the alarming proliferation of abortion bans and restrictions, highlighting their swift enactment across various states. Secondly, it endeavors to unveil the stark reality that, despite their purported race neutrality, these policies disproportionately affect Latinas, who grapple with a myriad of socio-economic and systemic disparities across multiple intersecting fronts, evident in the three focal states under examination. Lastly, it aims to underscore the overarching theme of inequality faced by Latinas as a collective entity in comparison to their white counterparts within these states, emphasizing the persistent hurdles encountered in accessing essential reproductive health services, despite the diversity of individual experiences within the Latina community.

## REPRODUCTIVE SERVICES AND DISTANCES TO CLINICS

Greater distance to abortion facilities is associated with greater out-of-pocket costs, emergency room follow-up care, negative mental health, and delayed care among U.S. abortion patients. The closure of abortion facilities is often followed by a notable decline in overall abortion rates, leading to increased travel distances to facilities, elevated out-of-pocket costs, higher birth rates, extended pregnancy durations at the time of abortion, and delays in accessing care. These delays contribute to an ongoing cycle of prolonged pregnancy durations and more expensive abortions, necessitating additional fundraising efforts. National studies conducted from 2014 to 2021, utilizing county-level data and projecting changes in abortion rates in the event of *Roe v Wade* being overturned, revealed that a reduced supply of abortion services and increased travel distances to facilities were correlated with lower abortion rates and delayed access to abortion. The most fervent example of this is in Texas where women seeking an

abortion must travel to the clinic closest to them, such as the 32 abortion clinics open in nearby states: New Mexico, Kansas, and Colorado.<sup>35 36</sup>

In comparing reproductive services and abortion regulations across Arizona, Texas, and New York, significant differences emerge, reflecting varying legislative landscapes and healthcare access. Arizona presents challenges in access to abortion services, with a declining number of clinics and restrictive regulations. Despite having seven abortion clinics, Arizona imposes a gestational limit of 15 weeks and mandates a 24-hour waiting period, along with in-person counseling requirements, potentially creating barriers for individuals seeking abortions. The state's approach to reproductive healthcare intersects with disparities in maternal mortality rates, with higher rates observed among racial and ethnic minority groups, highlighting systemic inequities in healthcare access and outcomes.<sup>37 38</sup>

In stark contrast, Texas has undergone profound shifts in abortion access following legislative changes and the overturning of *Roe v. Wade*, effectively banning most abortions in the state. With zero clinics offering abortion care as of October 2022, Texas residents face significant challenges in accessing reproductive services. The restrictive laws and ambiguous language surrounding emergent medical conditions create uncertainty for healthcare providers

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<sup>35</sup> “Texas Abortion Clinic Guide from Plan C Pills.” 2022. The Abortion Clinic Guide from Plan C Pills. Plan C. June 15, 2022. <https://abortion-clinic.plancpills.org/texas>.

<sup>36</sup> “Texas Abortion Policies.” 2021. KFF. October 21, 2021. <https://www.kff.org/interactive/womens-health-profiles/texas/abortion-policies/>.

<sup>37</sup> “Arizona Maternal & Infant Health Data.” 2021. KFF. October 21, 2021. <https://www.kff.org/interactive/womens-health-profiles/arizona/maternal-infant-health/>.

<sup>38</sup> “Arizona Abortion Clinic Guide from Plan C Pills.” 2022. The Abortion Clinic Guide from Plan C Pills. Plan C. June 15, 2022. <https://abortion-clinic.plancpills.org/arizona>.



and individuals seeking abortions, further exacerbating barriers to care. However, innovative approaches such as telehealth abortion pill access and online providers offer alternative avenues for individuals to access abortion services, albeit with limitations and potential legal risks.

In contrast to Arizona and Texas, New York stands out for its robust protections and expansive access to reproductive healthcare, including abortion services. With 106 abortion clinics and guaranteed abortion rights up to 24 weeks post-fertilization, New York prioritizes reproductive autonomy and healthcare access. Medicaid coverage for abortion care, regardless of immigration status, underscores the state's commitment to equitable healthcare access. Furthermore, telehealth abortion pill access enhances convenience and accessibility, allowing individuals to consult with medical providers remotely and receive abortion pills discreetly by mail. New York's approach to reproductive healthcare reflects a commitment to ensuring comprehensive care and reproductive rights for all residents, setting a standard for reproductive health policy nationwide.<sup>39 40</sup>

## IMMIGRANT STATUS

In light of the erosion of federal protections established in *Roe v. Wade*, the Dobbs ruling has emboldened states to enact stringent abortion bans, disproportionately impacting vulnerable communities, particularly Latinas. This exacerbation of harm against marginalized groups underscores the urgent imperative to address immigration status and its profound influence on

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<sup>39</sup> “New York Abortion Clinic Guide from Plan C Pills.” 2022. The Abortion Clinic Guide from Plan C Pills. Plan C. June 15, 2022. <https://abortion-clinic.plancpills.org/new-york>.

<sup>40</sup> “New York Maternal & Infant Health Data.” 2021. KFF. October 21, 2021. <https://www.kff.org/interactive/womens-health-profiles/new-york/maternal-infant-health/>.

reproductive rights. Immigrants, especially those who are undocumented or belong to mixed-status families, confront heightened vulnerability due to a myriad of obstacles and an increased risk of criminalization rooted in their immigration status. These challenges encompass arbitrary Customs and Border Protection (CBP) checkpoints, prolonged waiting periods for legal permanent residents to access public health insurance programs, and collaborations between local law enforcement and federal immigration authorities. Furthermore, immigrants held in detention centers confront additional threats to reproductive health, including denial of abortion care and unnecessary gynecological procedures, as evidenced in two of my case studies.

Emma Flores' article, *Immigration & Abortion Care: Why Reproductive Rights are Inextricable from Migration*, sheds light on how Texas' SB8 bill, a near-total abortion ban, exacerbates the oppressive travel restrictions faced by immigrant individuals in border towns. Even prior to the overturn of *Roe v. Wade*, undocumented immigrants endured arduous journeys to access abortion services, navigating rural areas and crossing borders amidst anti-immigrant sentiment and reproductive stereotypes.<sup>41</sup> These narratives perpetuate harmful stigmas and subject immigrant communities to systemic punishment and scapegoating.

Exploring the intersection of immigration status reveals a profound and intricate relationship with abortion access, particularly for Latina undocumented immigrants. Understanding the profound impact of documentation on reproductive justice is imperative, as it affects an undocumented Latina's reproductive mobility. Being undocumented already places individuals in a state of criminalization, and when needing an abortion, the state in which an

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<sup>41</sup> Flores, Emma. 2021. "Immigration & Abortion Care: Why Reproductive Rights Are Inextricable from Migration." National Partnership for Women & Families. October 1, 2021. <https://nationalpartnership.org/immigration-abortion-care-why-reproductive-rights-are-inextricable-from-migration/>.

undocumented Latina resides can determine her fate. Access to healthcare in general as an undocumented individual is already trivial because of the heightened restrictions undocumented individuals face in accessing basic health services. A study done by the National Immigration Law Center on barriers for low-income immigrants in the United States details this reality stating that “undocumented immigrants are ineligible for the federal Medicaid program, and most green card holders must wait five years until they are eligible for federal health coverage.”<sup>42</sup> Lack of access to public health insurance coverage is therefore a major obstacle to accessing necessary health care services.

Systemic barriers such as ineligibility for healthcare are necessary to understand because of how they impede immigrants' ability to obtain essential reproductive healthcare services, exacerbating disparities in access to reproductive healthcare as well. Therefore the reason why reproductive justice needs to be understood with immigrant status is not only because of existing restrictions in place on immigrant healthcare but also because of how an additional layer of vulnerability is formed when an undocumented Latina is not only being persecuted for being undocumented but depending on her state is as well being persecuted for attempting to attain an abortion.

While much of the data presented in this thesis is derived from survey services like the American Community Survey, it's essential to acknowledge the inherent difficulty in accurately measuring the population of undocumented persons per state, given its dynamic and elusive nature. While estimates of undocumented populations in states like Texas, New York, and Arizona provide valuable insight—Pew Research Center estimated Texas to have 1.6 million undocumented

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<sup>42</sup> Nilc.org. <https://www.nilc.org/news/special-reports/immigrants-at-the-border-of-equity-and-opportunity/>.

residents, New York with 600,000, and Arizona with 250,000—it's crucial to recognize the fluidity and complexity of this demographic.<sup>43</sup>

## IMMIGRANT RIGHTS

Each state—Arizona, Texas, and New York—exhibits distinct approaches to the intersection of local law enforcement and immigration policies, reflecting varying legislative frameworks and enforcement strategies. In Arizona, the enforcement of immigration laws has undergone significant evolution, particularly with the enactment of SB 1070. Initially, the law mandated local police to conduct immigration status checks based on "reasonable suspicion." However, legal challenges arose, alleging civil rights violations, leading to federal court injunctions that tempered certain provisions. While the Supreme Court upheld some aspects, such as allowing police to verify citizenship status during arrests, it struck down severe penalties on employers. This history underscores the ongoing tension between state and federal immigration enforcement, with Arizona navigating the complexities of balancing law enforcement responsibilities with civil liberties.<sup>44</sup> In Texas, collaboration between local law enforcement and federal immigration agencies is facilitated through programs like Section 287(g). This initiative enables partnerships aimed at identifying and removing non-U.S. citizens,

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<sup>43</sup> Passel, Jeffrey S. 2023. "What We Know about Unauthorized Immigrants Living in the U.S." Pew Research Center. November 16, 2023. <https://www.pewresearch.org/short-reads/2023/11/16/what-we-know-about-unauthorized-immigrants-living-in-the-us/>.

<sup>44</sup> Eric Harvey, J. D. 2023. "Arizona State Immigration Laws." Findlaw.com. October 25, 2023. <https://www.findlaw.com/immigration/immigration-laws-and-resources/arizona-state-immigration-laws.html>.

particularly those engaged in criminal activities. County sheriff's offices actively participate in the 287(g) program, which aligns with broader federal efforts to enhance immigration enforcement by targeting individuals deemed security risks or lawbreakers.<sup>45</sup>

Operation Lone Star is a Texan initiative that aims to enhance border security by deploying state resources, including the Texas National Guard, to address illegal immigration and criminal activities along the border. Operation Lone Star operates in coordination with federal agencies, such as Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE), to bolster immigration enforcement efforts. While proponents argue that Operation Lone Star is necessary to address border security challenges, critics raise concerns about potential civil rights violations and the militarization of border communities.<sup>46</sup>

Similarly, in New York, federal agencies collaborate with local authorities to enforce immigration laws, leveraging programs like Section 287(g) embedded within the Immigration and Nationality Act (INA). This joint effort aims to address unlawful immigration and criminal activities involving noncitizens. Overall, while each state grapples with unique challenges and priorities in the realm of law enforcement and immigration, these comparative analyses shed light on the multifaceted dynamics shaping policies and practices across different jurisdictions.<sup>47</sup>

In Arizona, the "Legal Arizona Workers Act" establishes stringent measures against the employment of unauthorized workers, with provisions for penalties such as warnings and license revocation. The law mandates the use of E-Verify by employers to prevent unauthorized employment, a requirement upheld by the Supreme Court as falling within state authority.

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<sup>45</sup> Lyle Therese A. Hilotin-Lee, J. D. 2023. "Texas State Immigration Laws." Findlaw.com. August 3, 2023. <https://www.findlaw.com/immigration/immigration-laws-and-resources/texas-state-immigration-laws.html>.

<sup>46</sup> "Operation Lone Star." n.d. Texas.gov. <https://gov.texas.gov/operationlonestar>.

<sup>47</sup> Lyle Therese A. Hilotin-Lee, J. D. 2023. "New York State Immigration Laws." Findlaw.com. September 12, 2023. <https://www.findlaw.com/immigration/immigration-laws-and-resources/new-york-state-immigration-laws.html>.

Additionally, employers must comply with federal employment eligibility verification rules, including Form I-9 requirements. Similarly, Texas mandates the use of E-Verify by state agencies, including boards, commissions, and departments, for employment eligibility checks. This online program, administered by the Department of Homeland Security in collaboration with the Social Security Administration, verifies the immigration status of new employees.<sup>48</sup>

In contrast, New York does not have specific laws requiring the use of E-Verify for employment verification. However, federal law mandates that all U.S. employers, regardless of location, complete Form I-9 for all employees, irrespective of their citizenship status. While New York does not have E-Verify requirements, employers in the state have the option to use the system if they choose to do so. Overall, while Arizona and Texas have implemented state-level requirements for E-Verify usage in employment checks, New York relies on federal regulations, highlighting variations in approaches to employment and immigration policies among states.<sup>49</sup>

Driver's License/ID Requirements vary among Arizona, Texas, and New York, reflecting different approaches to immigration status verification and access to essential documentation. In Arizona, obtaining an ID card or driver's license necessitates proof of birth date and legal residency, effectively excluding immigrants without proper documentation from accessing these forms of identification. Texas issues driver's licenses to U.S. citizens, lawful permanent residents, refugees, or asylees. Accepted documentation includes a U.S. passport, foreign passport with a valid U.S. visa, immigrant visa with temporary I-551, Permanent Resident card, or employment authorization document.<sup>50</sup> New York's Green Light Law stands in contrast to Arizona and Texas policies, allowing undocumented immigrants to apply for a driver's license.

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<sup>48</sup> *Ibid.* Lyle Therese A. Hilotin-Lee, J. D. 2023. "Texas State Immigration Laws."

<sup>49</sup> Lyle Therese A. Hilotin-Lee, J. D. 2023. "New York State Immigration Laws."

<sup>50</sup> Lyle Therese A. Hilotin-Lee, J. D. 2023. "Texas State Immigration Laws." Findlaw.com. August 3, 2023. <https://www.findlaw.com/immigration/immigration-laws-and-resources/texas-state-immigration-laws.html>.

This inclusive approach is facilitated by a broader list of acceptable identification, making the process more accessible to individuals regardless of immigration status. The New York State Department of Motor Vehicles provides detailed information on acceptable documents, promoting greater access to essential services for immigrant communities. Overall, while Arizona and Texas have more restrictive requirements for driver's licenses and IDs, New York's approach reflects a more inclusive stance towards undocumented immigrants, providing them with the opportunity to obtain essential forms of identification.<sup>51</sup>

In Arizona, federal law strictly bars most public benefits for undocumented immigrants, aligning with broader immigration policies aimed at limiting support for individuals without legal status. While emergency services necessary to protect life and safety are exceptions, access to comprehensive healthcare, including reproductive services such as abortion, is likely to be restricted for undocumented individuals in Arizona due to these limitations.<sup>52</sup> Similarly, undocumented immigrants in Texas face limited access to federal public benefits, although there are exceptions for certain health and safety-related services such as prenatal care. However, the scope of these exceptions may not extend to comprehensive reproductive healthcare, including abortion services, potentially posing barriers to access for undocumented individuals in Texas.

In New York, federal law also restricts most public benefits for undocumented immigrants, but emergency services and healthcare deemed necessary to protect life and safety remain accessible. This may include abortion services in cases where the health or life of the pregnant individual is at risk. However, undocumented immigrants in New York may still face challenges in accessing abortion services due to financial and logistical barriers, even if they

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<sup>51</sup> *Ibid.* Lyle Therese A. Hilotin-Lee, J. D. 2023. "New York State Immigration Laws."

<sup>52</sup> Eric Harvey, J. D. 2023. "Arizona State Immigration Laws." Findlaw.com. October 25, 2023. <https://www.findlaw.com/immigration/immigration-laws-and-resources/arizona-state-immigration-laws.html>.

qualify for emergency services under federal law. Overall, while federal laws and state exceptions vary across Arizona, Texas, and New York, undocumented immigrants in all three states may encounter obstacles in accessing comprehensive reproductive healthcare, including abortion services, due to restrictions on public benefits and gaps in coverage. These disparities underscore the need for equitable access to reproductive healthcare services for all individuals, regardless of immigration status.

In Arizona, undocumented residents, including DACA recipients, gained access to in-state tuition after the passage of Proposition 300. However, Arizona does not provide undocumented residents with access to state financial aid, professional and occupational licensure, driver's licenses, and state identification. This limited access to financial aid and other benefits may pose significant challenges for undocumented students seeking higher education and professional opportunities in Arizona. Texas, through House Bill 1403 (Texas Dream Act), offers more comprehensive support for undocumented immigrants. This legislation grants them access to state financial aid and in-state tuition, including DACA recipients, provided they meet certain eligibility criteria such as high school graduation in Texas, residency requirements, enrollment in a Texas higher education institution, and commitment to applying for lawful permanent residency. These provisions aim to remove barriers and facilitate access to higher education and career advancement opportunities for undocumented students in Texas.<sup>53</sup>

Similarly, New York's Assembly Bill 9612 extends in-state tuition benefits to students without proper documentation, including DACA recipients. To qualify, students must meet criteria such as attending high school in New York for a minimum period, graduating or obtaining a GED, applying to a New York school within a specified timeframe, proving

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<sup>53</sup> Lyle Therese A. Hilotin-Lee, J. D. 2023. "Texas State Immigration Laws." Findlaw.com. August 3, 2023. <https://www.findlaw.com/immigration/immigration-laws-and-resources/texas-state-immigration-laws.html>.



residency, and filing an affidavit to apply for a legal immigrant visa. By providing access to in-state tuition, New York aims to support the educational aspirations of undocumented students and facilitate their integration into higher education institutions. Overall, while all three states have taken steps to address educational or tuition restrictions for undocumented students, Texas and New York offer more comprehensive support compared to Arizona. Texas and New York's legislation enables undocumented students, including DACA recipients, to access state financial aid and in-state tuition, thereby expanding educational opportunities and pathways to professional advancement. These policies reflect a recognition of the contributions and potential of undocumented students and seek to promote equity and inclusion in higher education.<sup>54</sup>

Efforts to ban renting to undocumented immigrants exist in some municipalities in Arizona, indicating localized attempts to restrict housing access based on immigration status. However, there is no statewide ban in place, leaving room for potential discrimination at the local level. It's important to note that discrimination in housing based on immigration status is illegal under the federal Fair Housing Act, providing a level of protection against such practices. However, the absence of a statewide ban underscores the need for consistent enforcement and comprehensive policies to ensure equal housing access for all individuals in Arizona. Texas adheres to the Fair Housing Act, which prohibits discriminatory housing practices based on various factors, including race, national origin, religion, disability, sex, or familial status. This comprehensive protection extends to all residents, regardless of immigration status, ensuring that everyone has equal rights in housing-related activities such as sale, rental, financing, home appraisal, insurance, and accessibility. By upholding the principles of fairness and equality in housing, Texas promotes inclusivity and diversity within its communities.<sup>55</sup>

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<sup>54</sup> Lyle Therese A. Hilotin-Lee, J. D. 2023. "New York State Immigration Laws."

<sup>55</sup> *Ibid.* Lyle Therese A. Hilotin-Lee, J. D. 2023. "Texas State Immigration Laws."

New York: The U.S. Fair Housing Act protects equal housing access regardless of immigration status in New York, mirroring the federal legislation's provisions nationwide. Discrimination based on race, national origin, religion, sex, familial status, and disability is prohibited under New York's Fair Housing Act, ensuring that all individuals, regardless of immigration status, have equal opportunities to access housing. This comprehensive protection aligns with New York's commitment to promoting inclusivity and diversity within its communities. While all three states adhere to the Fair Housing Act and prohibit discrimination in housing based on various factors, including immigration status, there may be localized efforts to restrict housing access for undocumented immigrants in Arizona. However, federal and state-level protections under the Fair Housing Act ensure that individuals in Texas and New York have equal rights and opportunities in housing-related activities, promoting inclusivity and nondiscrimination in housing practices.

In summary, how reproductive justice is correlated with immigrant rights is most evident when considering the intersection of abortion rights and immigration rights. One significant aspect highlighted is how stringent immigration policies can serve as barriers to immigrants' access to reproductive healthcare, including crucial services like abortion. These policies not only limit immigrants' ability to exercise their reproductive rights but also exacerbate existing disparities in healthcare access. Moreover, anti-immigrant measures can create additional hurdles for immigrant women in making decisions about their reproductive health and family planning. Restrictions on healthcare programs may restrict access to comprehensive health services, thereby further marginalizing immigrant communities. Additionally, laws targeting immigrants based on their status can exacerbate these challenges, making it even more difficult for them to access essential reproductive healthcare. This underscores the urgent need to address systemic

barriers and ensure that all individuals, regardless of their immigration status, have equitable access to healthcare services.

## LANGUAGE

An examination of language reveals underlying obstacles for Latino communities. Language barriers have consistently posed challenges for individuals seeking abortions who speak Spanish. Without support, clients fluent in Spanish may encounter difficulties in navigating the process. Generally, families that primarily speak Spanish often lack access to abortion-related information, making them vulnerable to misinformation disseminated through media outlets and social platforms. This point is proven further by the NALEO National Latino Voter Tracking Poll, which found in 2022 that an overwhelming majority of Latino in their survey (76%) have heard that abortion is now illegal nationwide and that a person can get arrested for seeking one.<sup>56</sup> The percentage is even higher among Spanish-speaking Latino households, as 43% of Latino who live in predominantly Spanish-speaking households reported that they had seen or heard “a lot” about this, 7% higher than predominantly English-speaking households. Not only is this misinformation saturating the Latino community, but more than three-fifths of Latino registered voters (63%) believe that this is true. When we look at differences based on language, these have a significant impact on the likelihood that Latino will believe these false claims. Latino who live in Spanish-speaking households are 13% more likely to believe that this statement is “mostly true” compared to English-speaking Latino households.

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<sup>56</sup> Bennett, Carly, and Gabriel R. Sanchez. 2022. “Why Spanish-Language Mis- and Disinformation Is a Huge Issue in 2022.” Brookings. November 4, 2022. <https://www.brookings.edu/articles/why-spanish-language-mis-and-disinformation-is-a-huge-issue-in-2022/>.

Therefore when looking at the population of Spanish-speaking households, the use of interpreting language accessibility is vital, because it represents whether or not policies are in place to inform and reach the Spanish-speaking public. Language access is a crucial aspect of navigating healthcare systems, particularly within the complex landscape of abortion care. Access to language services, including oral interpreting, written translations, and the provision of services directly in a non-English language, is essential for individuals with limited English proficiency to fully understand and engage with their healthcare providers.

In *Transcending Language Barriers in Obstetrics and Gynecology*, Dr. Truong et al. demonstrate that structural racism is increasingly documented in the field of obstetrics and gynecology, and recognition of xenophobia as a driver of worse health outcomes is growing. This is demonstrated most in the variable of language-access policies.<sup>57</sup> reproductive health and limited English proficiency are intricately linked, as language barriers can significantly impact access to and quality of care in reproductive health services. Patients with limited English proficiency may face challenges in understanding medical instructions, communicating their symptoms effectively, and accessing appropriate care due to language differences. This can lead to misunderstandings, medical errors, and ultimately, poorer health outcomes.

In Dr. Truong et al.'s study, there is an example of a 36-year-old Latina patient with limited English proficiency who faced challenges in understanding medical instructions due to language barriers. This case illustrates the importance of inclusive language practices in reproductive healthcare. The patient, primarily Spanish-speaking, received instructions in English for hormonal menstrual suppression. However, without proper translation or

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<sup>57</sup> Truong S, Foley OW, Fallah P, Lalla AT, Osterbur Badhey M, Boatn AA, Mitchell CM, Bryant AS, Molina RL. *Transcending Language Barriers in Obstetrics and Gynecology: A Critical Dimension for Health Equity*. *Obstet Gynecol*. 2023 Oct 1;142(4):809-817.

interpretation, she misunderstood the dosage instructions and ended up taking the wrong dosage, mistaking "once" daily for "eleven" daily in Spanish. This example highlights the critical need for language-appropriate communication in reproductive healthcare to ensure patient safety, understanding, and adherence to medical advice. Therefore my investigation is made to include the experiences of language policy within these states that share large Latina communities in need of accessing abortion, addressing language barriers through inclusive practices such as providing translated materials and utilizing qualified interpreters, healthcare providers can enhance the quality of care and outcomes for patients with limited English proficiency, like the Latina patient in this case.

While federal laws such as Title VI of the Civil Rights Act of 1964 and Section 1557 of the Affordable Care Act mandate language access services to ensure equitable healthcare for all individuals, regardless of their language proficiency, despite these legal requirements, there remains a significant shortage of bilingual providers, translated documents, and medical interpreters within the healthcare system.<sup>58</sup> This shortage presents a barrier to language-concordant care, where patients can communicate effectively with their healthcare providers in their preferred language. Furthermore, reimbursement issues compound the problem, with few insurers directly reimbursing for interpreter services and others offering lower reimbursement rates. This financial constraint limits the availability of language services within healthcare facilities, further exacerbating language-related barriers to care for individuals with limited English proficiency. In summary, language access plays a crucial role in ensuring equitable healthcare access for all individuals. However, the shortage of bilingual providers, translated

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<sup>58</sup> Office for Civil Rights (OCR). 2010. "Section 1557 of the Patient Protection and Affordable Care Act." Hhs.gov. US Department of Health and Human Services. July 22, 2010. <https://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html>.

materials, and medical interpreters, combined with reimbursement challenges, creates significant barriers to language-concordant care for adults with limited English proficiency, highlighting the need for continued efforts to address these disparities within the healthcare system.

In New York, Spanish emerges as the predominant language spoken after English, with an estimated population of over 2.7 million individuals, according to the American Community Survey in 2022.<sup>59</sup> Governor Hochul's recent expansion of the language access policy, enacted in April 2022 and overseen by the Office of Language Access, signifies a significant step towards ensuring equitable language access across state agencies. Under this policy, interpretation services in any language are mandated for agency services or benefits, alongside the translation of vital documents into the top 12 most commonly spoken non-English languages among Limited English Proficiency (LEP) New Yorkers, as determined by Census data. These measures underscore New York's commitment to fostering inclusivity and addressing linguistic barriers to access government services effectively.<sup>60</sup>

Similarly, in Texas, Spanish prevails as the primary non-English language spoken, with a population exceeding 7.9 million individuals, as reported by the American Community Survey in 2022.<sup>61</sup> Texas has implemented comprehensive laws and policies to facilitate language translation, particularly within critical sectors such as the judiciary and education. The state's judicial system recognizes the significance of spoken language interpreters in ensuring due process and efficiency in court proceedings, with resources provided through the Judicial Branch

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<sup>59</sup> U.S. Census Bureau. "Language Spoken at Home." *American Community Survey, ACS 1-Year Estimates Subject Tables, Table S1601*, 2022, <https://data.census.gov/table/ACSST1Y2022.S1601?text=Language&t=Language Spoken at Home&g=040XX00US36&y=2022>.

<sup>60</sup> "Language Access Policies and Plans." n.d. Department of Financial Services. [https://www.dfs.ny.gov/language\\_assistance](https://www.dfs.ny.gov/language_assistance).

<sup>61</sup> U.S. Census Bureau, "Language Spoken at Home," 2022. *American Community Survey, ACS 1-Year Estimates Subject Tables, Table S1601*, 2022, <https://data.census.gov/table/ACSST1Y2022.S1601?text=Language&t=Language Spoken at Home&g=040XX00US48&y=2022>.

Certification Commission (JBCC) and the Texas Court Remote Interpreter Service (TCRIS).<sup>62</sup>

Furthermore, the Texas Education Agency administers grant funds to address the unique needs of Limited English Proficient (LEP) students in public schools, where Spanish predominates among this demographic. These initiatives underscore Texas's commitment to promoting language access and addressing linguistic barriers to ensure equitable access to justice and education for all residents.<sup>63</sup>

Meanwhile, in Arizona, Spanish also emerges as the most spoken language after English, with a population of over 1.3 million individuals according to the American Community Survey in 2022.<sup>64</sup> The state's Department of Economic Security (DES) plays a pivotal role in ensuring meaningful access for individuals with Limited English Proficiency (LEP), in compliance with Title VI of the Civil Rights Act of 1964.<sup>65</sup> This includes providing interpreters, translators, and other aids at no cost to the individuals being served, alongside policies aimed at facilitating meaningful communication and access to vital documents for LEP participants and their families. These efforts underscore Arizona's commitment to upholding the rights of linguistic minorities and ensuring equitable access to essential services for all residents, regardless of language proficiency.

In summary, while Spanish is the most spoken language in all three states after English, each state has implemented unique policies and initiatives to address language access needs,

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<sup>62</sup> “TJB.” n.d. Txcourts.gov. <https://www.txcourts.gov/lap/>.

<sup>63</sup> Texas Education Agency. 2019. “Program Evaluation: Initiatives for Students with Limited English Proficiency.” Texas.gov. August 18, 2019. <https://tea.texas.gov/reports-and-data/program-evaluations/program-evaluations-initiatives-for-students-with-limited-english-proficiency>.

<sup>64</sup> U.S. Census Bureau. “Language Spoken at Home.” *American Community Survey, ACS 1-Year Estimates Subject Tables, Table S1601*, 2022, [https://data.census.gov/table/ACSST1Y2022.S1601?text=Language&t=Language Spoken at Home&g=040XX00US04&y=2022](https://data.census.gov/table/ACSST1Y2022.S1601?text=Language&t=Language%20Spoken%20at%20Home&g=040XX00US04&y=2022).

<sup>65</sup> “Limited English Proficiency Information.” n.d. Des.az.gov. <https://des.az.gov/how-do-i/request-assistance-ombudsman/lep>.

particularly for Limited English Proficient (LEP) individuals, in various sectors such as government services, judiciary, and education. These efforts aim to promote inclusivity and ensure equitable access to services for diverse linguistic communities within each state.

## HOUSEHOLD INCOME

Household income, beyond serving as a mere indicator of socioeconomic status, assumes a pivotal role as a determining factor in healthcare access, particularly concerning abortion services. Its significance lies in illuminating the essential nature of financial means in securing abortion care, underscoring the necessity for wealth affluence in navigating reproductive healthcare choices. The imperative to scrutinize Latino household income stems from the profound influence of wealth inequality on abortion access in the United States, where disparities persist among different demographic groups. For instance, according to the latest U.S. Census Bureau data from 2022, 16.8% of Latino, totaling 10 million individuals, lived below the poverty line nationally, a figure that, while surpassing the overall national poverty rate of 11.5%, marks a significant decline from the 2012 Latino poverty rate of over 25%. This reduction notwithstanding, the lingering disparity underscores the enduring challenges faced by Latino communities in accessing reproductive healthcare services, including abortion.<sup>66</sup>

Individuals with lower incomes, including many within the Latino community, are disproportionately affected by restrictions on Medicaid funding for abortions, as evidenced by state policies in Arizona and Texas. Such restrictions exacerbate existing financial barriers, including travel costs and lost wages associated with seeking abortion care. A deeper

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<sup>66</sup> Feng, Russell Contreras And. 2023. "Latino Poverty Rate Falls but Remains above U.S. Average." Axios.com. September 28, 2023. <https://www.axios.com/2023/09/28/hispanic-poverty-rate-census>.



examination, such as that provided by the *National Latina Institute for Reproductive Health* issue brief released in October 2023, reveals the complex interplay between financial constraints and reproductive decision-making among Latina individuals.<sup>67</sup> The brief highlights how economic hardships often compel individuals to seek abortions due to an inability to afford childcare or support another child financially. Moreover, the recent rollback of *Roe v. Wade* has further compounded challenges by diminishing access to abortion providers, particularly in regions with a higher concentration of Latina residents. Consequently, the scarcity of abortion clinics in such areas has effectively reduced reproductive healthcare accessibility, exacerbating disparities in abortion access and further underscoring the critical importance of financial resources in navigating reproductive choices for Latina individuals.

An analysis centered on economic barriers is fundamental to this thesis for 2 reasons. One is that to understand the scope of disparity Latinas face, there is an inherent need to understand economic mobility because it is their place in the economy that allows for the situation Latinas find themselves in to be shown. The other is that this entire investigation is reliant on avoiding a Pro-Choice framework which means that examining economic mobility is critical. The Pro-Choice framework, grounded in the idea of choice intricately linked to access to resources, establishes a hierarchy among women, privileging those who possess the resources to make authentic choices, as elucidated by Ricki Solinger and Loretta J Ross's work *Reproductive Justice: An Introduction*, "reproductive justice perspective stresses that when the need for abortion services is isolated from all other social justice issues and identified simply as a "choice," we ignore all the conditions and circumstances that influence a person's decision whether or not to have a child. In making the decision, she likely thinks about her access to

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<sup>67</sup> "State Abortion Bans Threaten 6.7 Million Latinas." 2023. National Partnership for Women & Families. October 3, 2023. <https://nationalpartnership.org/report/state-abortion-bans-threaten-Latinas/>.

economic justice—that is, to a living wage and affordable housing and child care, as well as to a healthy environment.”<sup>68</sup>

Andrea Smith correlates Solinger and Ross’s argument with capitalism in her work *Beyond Pro-Choice versus Pro-life* she contends that “consequently, since under a capitalist system, those with resources are granted more choices, it is not inconsistent to withdraw reproductive rights choices from poor women through legislation such as the Hyde Amendment, which restricts federal funding for abortion, or family, caps for Temporary Assistance for Needy Families (TANF) recipients.”<sup>69</sup> In essence, these policies restrict the reproductive rights of economically disadvantaged women by limiting their options and choices, while those with greater financial resources are better able to navigate such restrictions or access alternative avenues for reproductive healthcare. Because reproductive injustice entails restricting economic mobility, my investigation examines household income to illuminate the economic barriers that may prevent Latinas from accessing necessary reproductive care.

Comparing the estimated household incomes of Hispanic or Latino families of any race in Arizona, Texas, and New York to those of white families reveals significant disparities. In Arizona, the estimated household income for a white household stands at \$79,606, whereas for a Latino household, it is \$65,893, indicating a notable difference of \$13,713.<sup>70</sup> Similarly, in the state of Texas, the income for a white household is approximately \$82,032, whereas for a Latino

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<sup>68</sup> (124) Ross, Loretta J., and Rickie Solinger. *Reproductive Justice: An Introduction*. 1st ed. University of California Press, 2017.

<sup>69</sup> (160) Smith, Andrea. “Beyond Pro-Choice versus Pro-Life: Women of Color and Reproductive Justice.” Ross, Loretta, Lynn Roberts, Erika Derkas, Whitney Peoples, and Pamela Bridgewater. *Radical Reproductive Justice: Foundation, Theory, Practice, Critique*. New York: The Feminist Press, 2017.

<sup>70</sup> U.S. Census Bureau, “Selected Population Profile in the United States,” 2022. *American Community Survey, ACS 1-Year Estimates Selected Population Profiles, Table S0201*, 2022, <https://data.census.gov/table/ACSSPP1Y2022.S0201?text=Language&t=002:400:Income and Poverty&g=040XX00US04&y=2022>.

household, it's \$60,504, reflecting a substantial difference of \$28,940.<sup>71</sup> In New York, the average white household income is \$89,408, while for a Latino household, it is \$60,468, resulting in a difference of \$28,940.<sup>72</sup> Figure 1 represents the disparities in income. When factoring in living expenses, the average gross cost of rent paid by Latino in Arizona is \$1,338, which is lower than in New York \$3,741 but higher than in Texas \$1,172. Likewise, utility bills in Arizona (\$460.85) surpass those in Texas (\$423.90) but are lower than those in New York (\$433.70). Despite variations in household income, Latino all three states exhibit disparities in living costs compared to the average American household income of \$74,580, and in comparison, to their white counterparts Latino in these 3 cities experience an estimated \$22,000 income pay gap. These disparities underscore the multifaceted financial challenges faced by Hispanic or Latino families in accessing essential services and achieving economic stability across different regions in the United States.

The following bar graph visualizes and compares household incomes of Hispanic/Latino families to white families in Arizona, Texas, and New York unveiling significant disparities. For instance, in Arizona, the income difference between white and Latino households is \$13,713, while in Texas, it's a substantial \$28,940. Similarly, in New York, the disparity amounts to \$28,940 as well. Despite variations in income, Latino across these states face a significant

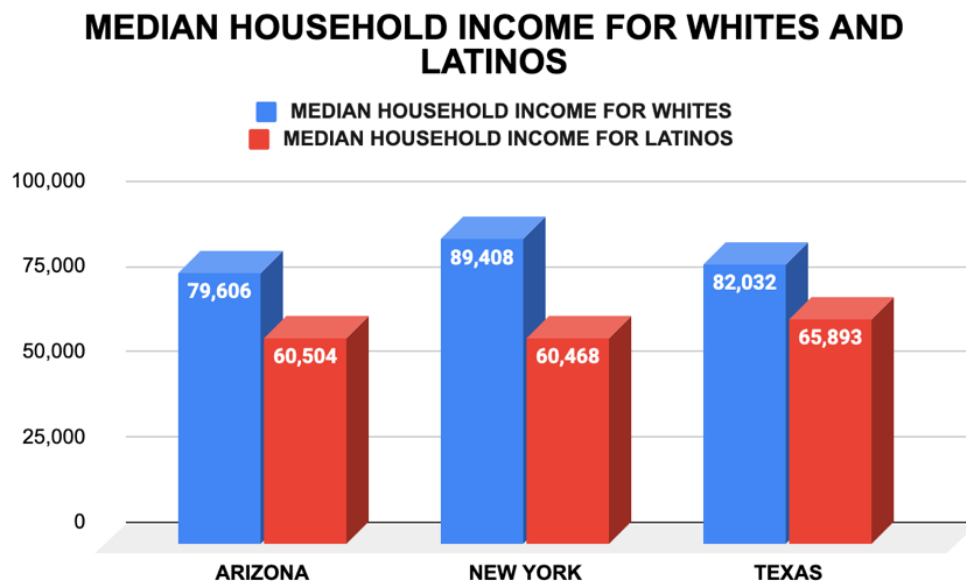
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<sup>71</sup> U.S. Census Bureau. "Selected Population Profile in the United States." *American Community Survey, ACS 1-Year Estimates Selected Population Profiles, Table S0201*, 2022, <https://data.census.gov/table/ACSSPP1Y2022.S0201?text=Language&t=002:400:Income and Poverty&g=040XX00US48&y=2022>.

<sup>72</sup> U.S. Census Bureau, "Selected Population Profile in the United States," 2022. *American Community Survey, ACS 1-Year Estimates Selected Population Profiles, Table S0201*, 2022, <https://data.census.gov/table/ACSSPP1Y2022.S0201?text=Language&t=002:400:Income and Poverty&g=040XX00US36&y=2022>.

income gap compared to the national average, highlighting the multifaceted financial challenges they encounter in achieving economic stability.

*Figure 1*



## EMPLOYMENT STATUS AND OCCUPATION SECTOR

The imperative to view abortion as an economic policy tool that exerts control over workers, particularly women, becomes evident when analyzing its impact on the economic security and independence of Latinas. The economic consequences extend beyond the individual level to impact the broader state, where the absence of Latina participation in the workforce diminishes economic security. The Institution for Women's Policy Research estimates that state-level abortion restrictions result in a considerable economic cost of \$105 billion per year,

affecting labor force participation, earnings, turnover, and time off from work among women aged 15 to 44.<sup>73</sup> States implementing abortion bans or restrictions often exhibit characteristics such as lower minimum wages, decreased unionization, restricted access to unemployment insurance and Medicaid, and higher incarceration rates, in contrast to states prioritizing the preservation of abortion access.

Inclusively, recent data from Michelle Long reveals concerning trends within large firms offering health benefits.<sup>74</sup> For instance, a notable proportion of these firms do not cover legally provided abortions under any circumstance in their primary plan. Furthermore, a significant percentage provides abortion coverage only under restricted conditions, such as cases of rape, incest, or when the pregnant person's health or life is in jeopardy. Of particular concern is the finding that a substantial portion of respondents representing these large firms are unaware of whether their primary plan covers abortions. This lack of clarity underscores potential gaps in information dissemination about abortion coverage within healthcare plans, highlighting the need for enhanced transparency and education regarding abortion coverage within employment-based healthcare plans. Thus, these findings underscore the crucial correlation between reproductive health and employment, emphasizing the need for comprehensive policy measures to ensure equitable access to reproductive healthcare services for all individuals, regardless of their employment status or occupation.

When it comes to addressing the minimum wage of the states in this study it is evident that Arizona's \$13.85 and Texas' \$7.25 is remarkably lower than NY's \$16.00 minimum wage.<sup>75</sup>

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<sup>73</sup> IWPR. 2021. "IWPR Research Shows Negative Impact of Abortion Bans on State Economies - IWPR." *IWPR - Institute for Women's Policy Research* (blog). IWPR. December 1, 2021. <https://iwpr.org/iwpr-research-shows-negative-economic-impact-of-abortion-bans-on-state-economies-2/>.

<sup>74</sup> Michelle Long, M. R. (2024, February 29). *Coverage of abortion in large employer-sponsored plans in 2023*. KFF

<sup>75</sup> "State Minimum Wage Laws." n.d. DOL. <https://www.dol.gov/agencies/whd/minimum-wage/state>.

The root causes of these economic impacts are apparent: when women lack essential benefits and support for balancing work and family responsibilities, they are compelled to cut back on work hours or exit the workforce. In a post-Roe world with expanded abortion bans, these costs are likely to intensify. The need for criteria looking into occupation sectors falls within the purview of employment status for Latinas because of the need to understand where Latinas might necessarily fall in the wage spectrum. According to the *National Partnership for Women and Families*, the population of women who are economically insecure in Arizona is 540,900 and in Texas, it is 2,405,500.<sup>76</sup> To be economically insecure in your occupation of employment is significant especially when there is a current ban on abortion and means of income are limited. Therefore when looking into the occupations and sectors in which Latinas work, it serves to correlate the economic insecurity of Latinas including those already in the workforce.

In Arizona, the Latino workforce, comprising over 1.75 million individuals aged 16 and over, represents a significant portion of the state's employment status landscape. The female civilian employed population exceeds 872,000 individuals. Arizona's minimum wage rate in 2023 stands at \$13.85, reflecting efforts to ensure fair compensation for workers. In terms of the occupation sector, nearly a third of employed Latinas work in management, business, science, and arts occupations, with similar proportions engaged in sales and office roles and service occupations. The top industries for Latino employment include educational services, healthcare, social assistance, retail trade, and professional, scientific, and management services, illustrating a diverse employment landscape.<sup>77</sup>

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<sup>76</sup> “State Abortion Bans Harm More than 15 Million Women of Color.” 2023. National Partnership for Women & Families. June 20, 2023. <https://nationalpartnership.org/report/state-abortion-bans-harm-woc/>.

<sup>77</sup> U.S. Census Bureau, "Selected Population Profile in the United States," 2022. *American Community Survey, ACS 1-Year Estimates Selected Population Profiles, Table S0201*, 2022, <https://data.census.gov/table/ACSSPP1Y2022.S0201?t=400:Employment:Employment and Labor Force Status:Industry:Language Spoken at Home:Occupation&g=040XX00US04&y=2022>.

Comparatively, Texas boasts a much larger Latino workforce, with over 8.85 million individuals employed, including more than 4.38 million female workers aged 16 and over. However, the state's minimum wage rate remains at the federal minimum of \$7.25 per hour. Despite this, Texas mirrors Arizona in its distribution of Latino workers across various occupation sectors, with significant representation in management, business, science, and arts roles, sales and office positions, and service occupations. The top industries for Latino employment in Texas also include educational services, healthcare, social assistance, construction, and retail trade, showcasing similarities in employment patterns between the two states.<sup>78</sup>

In New York, the Latino workforce comprises over 2.97 million individuals, with more than 1.51 million female workers aged 16 and over. Notably, New York boasts the highest minimum wage rate among the three states, currently set at \$16.00 per hour, reflecting the state's commitment to ensuring fair compensation for workers. Occupation sector trends among employed Latinas in New York closely resemble those in Arizona and Texas, with substantial representation in management, business, science, and arts occupations, as well as service and sales and office roles. The top industries for Latino employment in New York align with national trends, including educational services, healthcare, social assistance, arts, entertainment, recreation, accommodation and food services, and retail trade, highlighting the diversity and resilience of the state's economy.<sup>79</sup>

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<sup>78</sup> U.S. Census Bureau, "Selected Population Profile in the United States," 2022. *American Community Survey, ACS 1-Year Estimates Selected Population Profiles, Table S0201*, 2022, <https://data.census.gov/table/ACSSPP1Y2022.S0201?t=400:Employment:Employment and Labor Force Status:Language Spoken at Home:Occupation&g=040XX00US48&y=2022>.

<sup>79</sup> U.S. Census Bureau, "Selected Population Profile in the United States," 2022. *American Community Survey, ACS 1-Year Estimates Selected Population Profiles, Table S0201*, 2022,

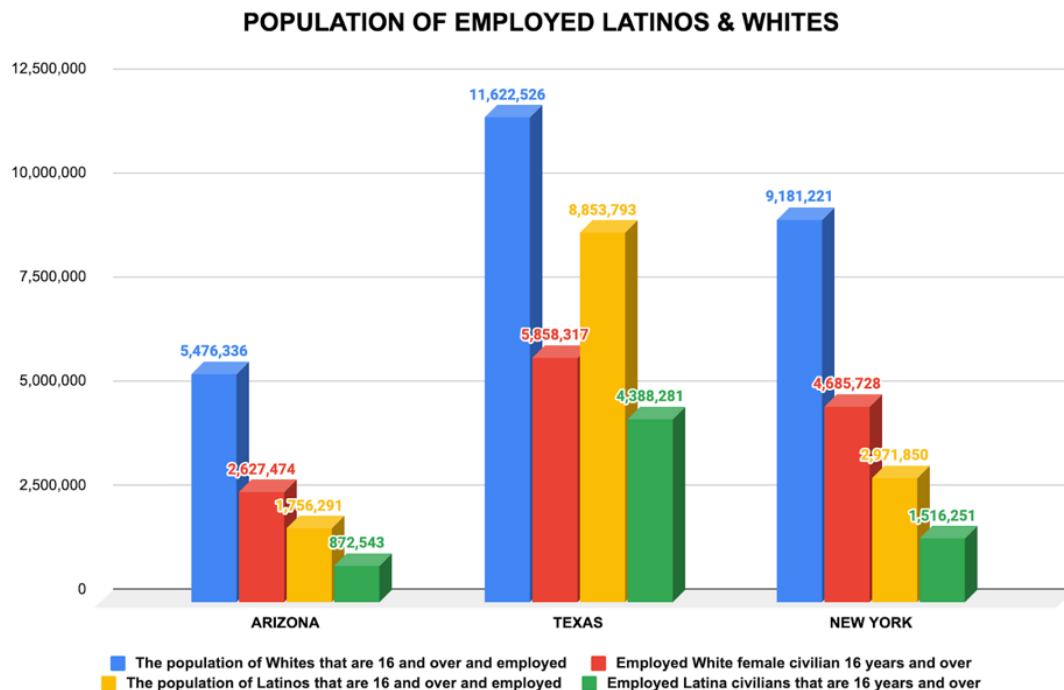
In Figure 2, we can discern the discrepancies in employment rates between white and Latino populations. In Arizona, the Latino workforce, comprising over 1.75 million individuals aged 16 and over, plays a significant role in the state's employment landscape, with more than 872,000 females employed. Despite a minimum wage of \$13.85 in 2023, nearly a third of employed Latinas work in management, business, science, and arts occupations, with diverse employment across industries like educational services, healthcare, and retail trade. Conversely, Texas hosts a larger Latino workforce, exceeding 8.85 million individuals employed, including over 4.38 million females aged 16 and over, yet maintains a minimum wage of \$7.25. Similar to Arizona, Latino workers are spread across various sectors, with notable employment in management, business, science, and arts roles, and industries such as educational services, healthcare, and construction. In New York, the Latino workforce surpasses 2.97 million individuals, benefiting from the highest minimum wage at \$16.00 per hour, with comparable occupation sector trends and diverse employment across industries like healthcare, education, and retail trade.

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<https://data.census.gov/table/ACSSPP1Y2022.S0201?t=400:Employment:Employment and Labor Force Status:Language Spoken at Home:Occupation&g=040XX00US36&y=2022>.



Figure 2



## EDUCATION

The inclusion of Education as a criterion in assessing the material realities for Latinas in accessing abortion services is imperative due to the complex and multifaceted relationship between abortion and educational attainment. Research consistently demonstrates that higher levels of education are associated with more reproductive autonomy, which can be attributed to several interconnected factors. Individuals with higher education levels typically have better access to comprehensive sex education, family planning resources, and contraceptives, which contribute to a reduced likelihood of unintended pregnancies and thus, abortions. Moreover, economic stability, often correlated with educational attainment, plays a significant role in

abortion decisions, as individuals with higher education levels are more likely to have the financial resources to support a child or access alternative reproductive healthcare options.

In their 2018 annual review for Public Health, Anna Zajacova<sup>1</sup> and Elizabeth M. Lawrence explored the relationship between education and health disparities in their publication *The Relationship Between Education and Health: Reducing Disparities Through a Contextual Approach*. They emphasized the multifaceted mechanisms underlying the reproduction of inequality, including systematic differences in school resources, quality of instruction, academic opportunities, peer influences, and teacher expectations. “The dual role of education, both engendering and constraining social opportunities, has been recognized from the discipline’s inception and has remained the dominant perspective in the sociology of education. Health disparities research, which has largely dismissed this perspective as “specious” could benefit from pivoting toward this complex sociological paradigm.”<sup>80</sup> Therefore, Zajacova and Lawrence’s insights underscore the importance of investigating education attainment as another critical variable, given the well-documented correlation between disparities in educational attainment and healthcare access.

Furthermore, higher levels of education are associated with delayed parenthood and more informed contraceptive choices, as well as progressive attitudes toward reproductive rights. These factors collectively influence the decision-making process surrounding abortion and contribute to lower abortion rates among individuals with higher education levels. For instance, a study conducted by Stanley K. Henshaw and Jane Silverman examined the characteristics and prior contraceptive use of abortion patients in the United States. The study found that while the

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<sup>80</sup> Zajacova A, Lawrence EM. The Relationship Between Education and Health: Reducing Disparities Through a Contextual Approach. *Annu Rev Public Health*. 2018 Apr 1;39:273-289. doi: 10.1146/annurev-publhealth-031816-044628. Epub 2018 Jan 12. PMID: 29328865; PMCID: PMC5880718.

pill was the second most frequently used contraceptive method, it accounted for a significant proportion of abortion patients, particularly among certain demographic groups.

Henshaw and Silverman find that "Lower educational attainment is associated with contraceptive nonuse, and separated and never-married abortion patients who are still in school are more likely to have been using a method during the month of conception."<sup>81</sup> Interestingly, the study revealed disparities in contraceptive use among different subgroups, with Blacks and Hispanics more likely to have used the pill but less likely to have used condoms or diaphragms. Additionally, nonuse of contraceptives was found to be prevalent among abortion patients who were young, poor, Black, Hispanic, or less educated. These findings underscore the intersectional nature of reproductive health disparities and highlight the importance of considering educational attainment as a critical factor in understanding abortion access and decision-making among Latinas.

Analyzing educational attainment data among the Hispanic/Latino population versus white individuals in these three significantly Latino-populated states, New York, Texas, and Arizona, offers valuable insights into the educational landscape. The disparities among Latino of any race in Arizona, Texas, and New York underscore the varied educational opportunities across these regions. In 2022, the figures reveal stark differences in educational attainment. For instance, while the number of Hispanic or Latino individuals aged 25 and older with educational attainment in Arizona was 1,367,319, the corresponding figure for their white counterparts stood at 3,185,361.<sup>82</sup> In Texas, although the number of Latino individuals with educational attainment

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<sup>81</sup> Henshaw, Stanley K., and Jane Silverman. "The Characteristics and Prior Contraceptive Use of U.S. Abortion Patients." *Family Planning Perspectives* 20, no. 4 (1988): 158–68. <https://doi.org/10.2307/2135791>.

<sup>82</sup> U.S. Census Bureau, "Selected Population Profile in the United States," 2022. *American Community Survey, ACS 1-Year Estimates Selected Population Profiles, Table S0201*, 2022, [https://data.census.gov/table/ACSSPP1Y2022.S0201?t=002:400:Educational Attainment&g=040XX00US04&y=2022](https://data.census.gov/table/ACSSPP1Y2022.S0201?t=002:400:Educational%20Attainment&g=040XX00US04&y=2022).

was higher at 6,977,651, it still lagged behind the white educational attainment, which reached 9,969,975.<sup>83</sup> Similarly, in New York, Latino recorded a substantial figure of 2,459,638, yet it fell short of the white educational attainment of 8,005,145.<sup>84</sup> While the census employs various metrics for measuring educational attainment, this broad approach allows for a general understanding of the disparities. However, delving deeper into the analysis, it becomes evident that further scrutiny is required. Specifically, examining high school diploma attainment and higher, as well as bachelor's diploma attainment and higher, for both whites and Latino offers a more nuanced comparison. When analyzing high school diploma attainment and higher, it becomes apparent that disparities persist. For whites, the rates are notably higher across all three states—Arizona (94.8%), New York (93.9%), and Texas (93%)—compared to Latino, where the rates are lower, ranging from 71.8% in New York to 75% in Arizona and 73% in Texas. Similarly, when considering overall bachelor's diploma attainment and higher, significant discrepancies emerge. In Arizona, while whites achieve a rate of 38.4%, Latino lag significantly behind at 17.2%. A similar pattern is observed in New York, where whites attain a bachelor's degree and higher at 46.2%, whereas Latino are at half of that, with 23.4%. In Texas, the gap remains pronounced, with whites reaching 40% attainment compared to Latino at 19.1%. Overall, these disparities underscore the importance of further investigation into the underlying factors contributing to differential educational attainment among whites and Latino across

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<sup>83</sup> U.S. Census Bureau, "Selected Population Profile in the United States," 2022. *American Community Survey, ACS 1-Year Estimates Selected Population Profiles, Table S0201*, 2022, <https://data.census.gov/table/ACSSPP1Y2022.S0201?t=002:400:Educational Attainment&g=040XX00US48&y=2022>.

<sup>84</sup> U.S. Census Bureau, "Selected Population Profile in the United States," 2022. *American Community Survey, ACS 1-Year Estimates Selected Population Profiles, Table S0201*, 2022, <https://data.census.gov/table/ACSSPP1Y2022.S0201?t=002:400:Educational Attainment&g=040XX00US36&y=2022>.

various states, however, white people continue to attain higher institutional education in comparison to Latino.

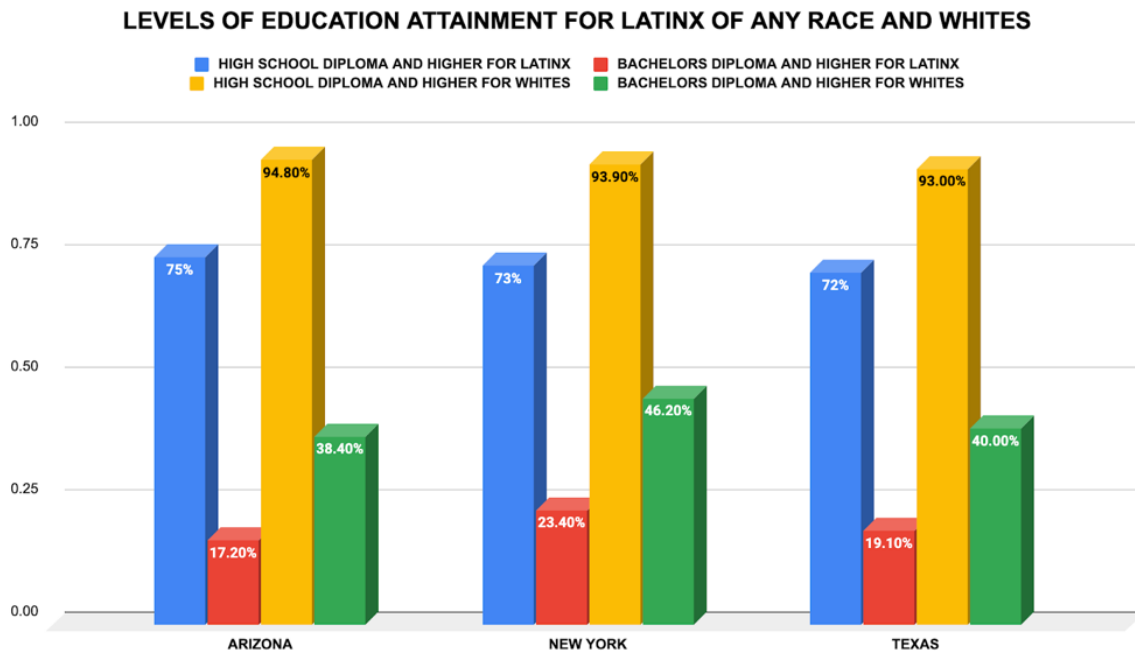
The following bar graph demonstrates disparities in educational attainment among Latino of any race in Arizona, Texas, and New York highlighting the diverse educational landscape across these regions, particularly evident in 2022 figures. For instance, while the number of Hispanic or Latino individuals aged 25 and older with educational attainment in Arizona was 1,367,319, it significantly trailed behind the white counterparts at 3,185,361. In Texas, although the number of Latino individuals with educational attainment was higher at 6,977,651, they still were behind white educational attainment, reaching 9,969,975. Similarly, in New York, Latino recorded a substantial figure of 2,459,638, yet it fell short of the white educational attainment of 8,005,145. These disparities, visually depicted in Figure 3, prompt further scrutiny into the underlying factors contributing to differential educational attainment among whites and Latinos across various states, highlighting the ongoing trend of higher institutional education attainment among white individuals compared to Latinos.

These statistics underscore the varying educational opportunities and outcomes experienced by Hispanic or Latino populations in different states. Texas exhibits the highest number of individuals with educational attainment, suggesting greater access to higher education and skill development programs compared to Arizona and New York. However Texas houses of the biggest population of Latinos (12,068,549) and in terms of high school education attainment its evident that it is quite high because of how much of the Latino population it houses, the Latino education attainment in Texas is numbered to be around 6,977,651. (The graph in Figure 3 demonstrates this visually) On the other hand, New York falls between Texas and Arizona in terms of educational attainment figures, indicating a moderate level of educational achievement

among Hispanic or Latino families in the state. It's important to recognize that Texas not only boasts the highest population of Latino with a greater rate of educational attainment compared to New York and Arizona but also has a substantially larger Latino population overall, both internally and in comparison with other racial groups. Monica Cruz from the Texas Demographic Center has demonstrated that, in 2021, Hispanics had the highest rate of less than high school educational attainment among individuals aged 25 years and older, surpassing all other racial/ethnic groups in the state.

Moreover, these disparities in educational attainment can have significant implications for various socio-economic indicators, including employment opportunities, income levels, and access to healthcare and other resources. States with higher levels of educational attainment among Hispanic or Latino populations may experience improved economic outcomes and greater social mobility, while those with lower educational attainment rates may face greater challenges in accessing opportunities for advancement and success. Overall, the comparison of educational attainment data highlights the importance of addressing disparities in educational access and attainment to promote equity and opportunity for Hispanic or Latino communities across different states. Efforts to improve educational outcomes and expand access to quality education and skill-building programs can play a crucial role in fostering socio-economic development and enhancing the well-being of Hispanic or Latino families nationwide.

*Figure 3*



## CHAPTER 2: ILLUMINATING THE CONTEXT OF LATINA REPRODUCTIVE INJUSTICE

WHAT IT MEANS TO GO *CONTRA ELLA*

Recognizing and tackling the growing specificity of restrictions on abortion access for Latinas via state policies necessitates moving beyond conventional neoliberal perspectives. It involves embracing the concept of reproductive justice and championing fair access to comprehensive reproductive healthcare services, it is imperative to note that when this is not done this is how I define going *Contra Ella*. I recognize this to be also known as Latina reproductive Injustice as well. The use of clarifying *Contra Ella*/Latina reproductive Injustice is because I recognize in this work that the structural issues Latinas face are part of a bigger systemic plight, not just because policy hindrances impede a Latina's mobility when wanting to attain an abortion but also because structural inequalities pervade their socio-economic reality in tandem with these policies, effectively hindering their self-determination and self-development. This clarification is crucial because the systemic plight at hand is the white capitalist patriarchy which not only shapes policy but routinely controls systemic structures that inseparably go *Contra Ella*. Therefore, this chapter endeavors to elucidate how Latina reproductive injustice serves as a manifestation of the enduring grip of the white capitalist patriarchy, allowing systemic perpetrators to benefit from impeding a Latina's self-development and self-determination. Subsequently, it aims to showcase how reproductive justice endeavors to confront and dismantle the structural impediments to Latina self-development and self-determination.

In delving into the concept of going *Contra Ella*, it's paramount to clarify that the barriers obstructing Latina reproductive justice evolved gradually, mirroring the incremental nature of the Dobbs decision's effects. Initially, the Jackson Women's Health Organization brought Dobbs to court primarily to challenge Mississippi's restrictive abortion law, which banned abortions after 15 weeks of pregnancy. This law directly conflicted with the precedent set by the Supreme Court's Roe v. Wade decision, which protects a woman's right to choose to have an abortion



before fetal viability, typically around 24 weeks. By taking Dobbs to court, the Jackson Women's Health Organization aimed to defend reproductive rights, argue for the protection of established legal precedent, and ensure that women in Mississippi have access to safe and legal abortion care without undue governmental interference. The opposite happened. The Mississippi law banning abortion after 15 weeks of pregnancy was upheld, marking the beginning of the understanding that now all 50 state governments can choose to intervene in abortion procedures however they would like.<sup>85</sup>

Because the lasting remnants of White culture's violation of Latina reproductive justice is systemically ingrained in the material boundaries they encounter in attaining reproductive care, which is elucidated empirically in my data chapter, it is useful to understand that these interlocking systems of oppression are coherent with the matrix of oppression that Black feminist theorist Patricia Hill Collins talks about in her seminal work *Black Feminist Thought*.<sup>86</sup> Patricia Hill Collins introduces the concept of the “matrix of domination,” describing intersecting systems of oppression. She asserts that those who derive advantages from this matrix typically belong to privileged groups within society, embodying dominant social identities such as whiteness, maleness, heterosexuality, and affluence. She describes that individuals often benefit from exploiting and marginalizing those othered from the dominant identity by perpetuating systems of inequality to uphold their privileged positions. Collins explains that “racial segregation in housing, schools, employment, and public facilities not only benefit some groups of Whites economically— they also keep allegedly hypersexual Blacks separated from Whites...

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<sup>85</sup> "Dobbs v. Jackson Women's Health Organization." *Oyez*, [www.oyez.org/cases/2021/19-1392](http://www.oyez.org/cases/2021/19-1392).

<sup>86</sup> Collins, P.H. 2000. *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*. Routledge.

In a context where Black bodies signal sexual deviancy, laws against intermarriage and other components of racial segregation ensured that the deviancy could be simultaneously exploited yet contained.”<sup>87</sup>

Echoing the matrix of oppression experienced by Black women, who as Collins expounds were labeled as sexually deviant and subjected to legal control for exploitative or containment purposes, Latinas find themselves compelled to navigate a similar paradigm today. They are forced into embodying the law through the policing of their bodies and are entangled within the intersecting realms of systemic oppression, which are intricately woven into their material realities through the matrix of oppression. Discerning the indispensable ways in which the matrix of oppression benefits those who have not been conceived as inferior is inherently linked to reproductive injustice, therefore we must discuss who benefits in going *Contra Ella*.

## WHO BENEFITS

In Audre Lorde’s *Sister Outsider*, Lorde argues that “Institutionalized rejection of difference is an absolute necessity in a profit economy which needs outsiders as surplus people.”<sup>88</sup> Her perspective not only provides a critique of the American consumerist agenda but also how in a profit-driven economy, such as capitalist America there is a systematic need to reject and marginalize individuals who are perceived as different or outside the norm. This rejection of difference is seen as essential for the functioning of the economy, which relies on the exploitation of surplus labor and resources. In essence, Lorde pushes that the economy thrives on the existence of marginalized groups who are excluded from full participation and treated as

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<sup>87</sup> *Ibid.* 130

<sup>88</sup> (115) Lorde, Audre. *Sister Outsider: Essays and Speeches*. United Kingdom: Penguin Publishing Group, 2020

disposable or surplus. In this argument the marginalized who are excluded from full participation are Latinas and the white supremacist capitalist patriarchy is the profit economy that institutionally inhibits them from being self-developed and self-determined under the definition of Justice by Young. However, this institutionalized rejection of Latinas is a necessity in a profit economy which serves the white supremacist capitalist patriarchy in being self-developed and self-determined.

The sine qua non of capitalism is the reproduction of labor power and its products, however, what it takes for the reproduction of labor power is the sex/gender system. Gayle Rubin, the feminist who coined the sex/gender system originated this argument in *The Traffic in Women: Notes on the "Political Economy" of Sex*.<sup>89</sup> Rubin argued that because capitalism relies on the reproduction of labor power to sustain itself, the mechanisms for this reproduction are deeply intertwined with the sex/gender system which necessitates the regulation of sexual and gender norms and practices. The intricate interplay between the heterosexual division of labor and the sex/gender system lays the foundation for the reproduction of goods and services. This system permeates every facet of society, necessitating its presence at all levels to facilitate the production process. Consequently, patriarchy intertwines with capitalism's mode of production, giving rise to the palpable manifestations of women's oppression within societal structures. Rubin's argument runs on the binary of sex and gender but coincides with facets of Heidi Hartmann's Dual Systems theory as a concept to engage with women's oppression as a result of the interaction between what she claims are two distinct but interconnected systems: capitalism and patriarchy.<sup>90</sup> However, I see it to great importance that Iris Marion Young's argument in

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<sup>89</sup> Rubin, Gayle (1975). *The Traffic in Women: Notes on the "Political Economy" of Sex*. In Rayna R. Reiter (ed.), *Toward an Anthropology of Women*. Monthly Review Press. pp. 157--210.

<sup>90</sup> Hartmann, H. I. (1979). *The Unhappy Marriage of Marxism and Feminism: Towards a more Progressive Union*. *Capital & Class*, 3(2), 1-33. <https://doi.org/10.1177/030981687900800102>

*Throwing Like A Girl*<sup>91</sup> positions that if capitalism and patriarchy are distinct systems mutually influencing one another nevertheless ultimately separate and irreducible it follows most plausibly that the struggle against patriarchy should be organizationally distinct from the struggle of capitalism. Which promotes a higher danger of separating feminist concerns to those in the women's movement.

Young argues that the politics of socialist feminism would be better served with a theory of capitalist society that explicitly incorporates gender differentiation into its structural analysis and hence takes the incorporation of women as a core aspect of the system. In an attempt to do this is the scope of mothering with capitalism which is another gear of socialist feminism that launches Young's proposal. This argument is initiated by Nancy Chodrow who explains in *Mothering, Male Dominance, and Capitalism* that women's mothering is the basis of family structure and male dominance.<sup>92</sup> Chodrow argues that mothering has developed an internal connection to the reproduction of capitalism, She suggests that the gendered division of labor, particularly the assignment of women to the role of primary caregivers, is not merely a reflection of traditional gender roles but is intricately tied to the economic structure of capitalism. Chodorow contends that women's socialization into mothering roles serves the interests of capitalism by producing and reproducing the labor force necessary for the functioning of capitalist economies. In this view, mothering practices are not solely about nurturing and caregiving but also about sustaining the workforce and perpetuating the economic system of capitalism.

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<sup>91</sup> (31) Young, Iris Marion, 'Throwing Like a Girl: A Phenomenology of Feminine Body Comportment, Motility, and Spatiality', *On Female Body Experience: "Throwing Like a Girl" and Other Essays*, Studies in Feminist Philosophy (New York, 2005; online edn, Oxford Academic, 1 Sept. 2005),

<sup>92</sup> Chodorow, Nancy. *The Reproduction of Mothering: Psychoanalysis and the Sociology of Gender*, Updated Edition. United Kingdom: University of California Press, 1999.

As someone who aligns with these academics and acknowledges their groundbreaking contributions, there is a notable oversight in intersectionality, particularly regarding race and citizenship, which my work underscores. This oversight may stem from the value placed on analyzing patriarchy as a whole system that disenfranchises women, focusing on the sexist structures of labor production. However, intersectionality brings in additional variables and sources of variation based on class, race, and cultural differences, thus complicating the analysis and potentially overshadowing the focus on male dominance and men themselves with diversity. Yet, in analyzing the infringement of Latina reproductive rights, I find that traditional socialist feminism lacks the additional layers that constitute the matrix of oppression Latinas face through race, citizenship, language, and more, all perpetuated by the white capitalist patriarchy. Just as sex and class are integral, race and citizenship should also be in conversation with Hartmann's dual systems theory, Rubin's sex/gender system, and Chodorow's analysis of mothering in capitalism's male dominance to achieve Latina reproductive justice because putting an end to the systemic ways in which the white capitalist patriarchy goes encompasses analyzing these material realities that go *Contra Ella*. As Audre Lorde once said in *Sister Outsider* (1984), "Refusing to recognize difference makes it impossible to see the different problems and pitfalls facing us as women."<sup>93</sup>

Therefore I turn to a theorist who engages with the multifaceted barriers of oppression diverse women face, Iris Marion Young, who once highlighted in that same piece in 1990 that there is a danger in essentializing a common consciousness in women, as it can lead to "serious cultural, ethnic, racial, and class biases in the account of the allegedly common structures of patriarchy" In her work *Justice and the Politics of Difference*, Young contends that justice

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<sup>93</sup> (85) Lorde, Audre. *Sister Outsider: Essays and Speeches*

should not be solely focused on distributional equality but should also consider the conditions that enable individuals to fully participate in society.<sup>94</sup> She advocates for a more inclusive approach to justice that recognizes and addresses the various forms of oppression and marginalization experienced by different social groups, including women, people of color, and LGBTQ+ individuals. By centering the experiences of these groups and acknowledging the interconnectedness of social systems, Young argues that oppression and domination are societal phenomena that curtail two essential principles of justice: self-development and self-determination.

#### TOWARDS A REPRODUCTIVE JUSTICE THAT DISMANTLES THE STRUCTURAL INHIBITIONS TO SELF-DEVELOPMENT AND SELF-DETERMINATION

When examining the criteria for Latina reproductive injustice in New York, Texas, and Arizona, it's evident that as an ethnic group of women, Latinas face the matrix of oppression within the white capitalist patriarchy in a distinct way. It is distinct because within itself it holds a profound interconnectedness with systemic institutions shaped by the white capitalist patriarchy, such as the impediment of language accessibility and citizenship that set against the pursuit of self-development and self-determination, essential liberties to achieve justice, as elucidated by Young. By now it is understood that the challenges faced by Latinas manifest in an interconnected matrix, as illustrated in the former data chapter. Disparities based on citizenship status reveal that while those with citizenship status may not personally encounter additional barriers related to immigration, they are still subject to restrictive state policies and pervasive

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<sup>94</sup> (26) *Justice and the Politics of Difference*. REV-Revised. Princeton University Press, 1990.

structural inequalities. Conversely, individuals lacking citizenship status experience more pronounced reproductive injustices within the matrix of oppression, often facing persecution and state violence such as deportation. Moreover, the data underscores how unequal educational attainment contributes to disparate employment outcomes, leading to income inequality influenced by occupation sector. Language barriers, shaped by colonial policies in regional states, further impede the self-development and self-determination of Latina individuals, exacerbating distinct regional disparities in states with significant Latina populations. If, as articulated by Young, domination and oppression are interconnected facets of structural injustice that often intersect in practice, then what Latinas endure collectively transcends mere reproductive injustice, encompassing injustice in its entirety.

In *Structure, Difference, and Hispanic/Latino Claims of Justice*, Young goes even further to assess the deterrents Latinos encounter when wanting to attain justice.<sup>95</sup> Young explains that in a Hispanics/Latinos experience, there are structural relations of constraints and entanglements that often have far-reaching consequences for their opportunities for well-being. She argues that Hispanics/Latinos are positioned within three sets of relations, though not uniformly, they tend to align with at least one of them: citizenship and social belonging, language, racism, stereotyping, and discrimination. On the one hand, citizenship and social belonging the reality of no matter what your citizenship status is in the United States you are liable to be treated as a foreigner. This is even more augmented for those who are undocumented because accessing public services asserts rights and in order for an undocumented Latina to claim reproductive rights she is limited, therefore being positioned as a foreigner or outsider thus

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<sup>95</sup>Young, I. (2000). Structure, difference and Hispanic/Latino claims of justice. In J. Gracia, & P. Greiff (Eds.) *Hispanics/Latinos in the United States: Ethnicity, race and rights* (pp. 147-165). New York: Routledge.

can have determinate material consequences for Latina economic, social, and political opportunities. In the imagination of Anglo Americans, Young argues that Latinos are permanently foreign immigrants.

In the category of Language, as Young delineates, further structural inequalities become evident. Many Hispanics/Latinos inhabit territories that were once independent Hispanic territories but were assimilated into the Anglo-American state through coercive means. This connection underscores issues of belonging, emphasizing their incomplete integration into the United States. However, the central concerns within the realm of language revolve around the fundamental principles of equal opportunity and fairness. Institutions that do not cater to individuals with limited proficiency in the dominant language can subject them to numerous hardships and disadvantages. Young then illuminates how Racism, Stereotyping, and Discrimination operate as the final structural inequalities Latinos face. “Unless their surname suggests a non-Hispanic/Latino background and their looks and speech allow them to ‘pass’ for Anglo if they choose, Hispanic/Latinos are liable to experience to be inconvenienced, disadvantaged, or oppressed by racist structures.” Additionally, other Hispanics/Latinos may actively participate in isolating those who appear to be of Black or Native American descent. However, for those who identify as Hispanic/Latino on the receiving end, anti-Hispanic/Latino racism manifests as both structural and institutional.

Understanding Latina reproductive injustice through the lens of structural inequalities within Young's three sets of relations is crucial for highlighting the necessity of Latina reproductive justice. This approach recognizes that cultural and structural social positions give rise to conflicts and shape relationships of privilege and relative disadvantage. By examining how these structural inequalities intersect with the following issues elucidated in my data such as



language, citizenship, and as well as education attainment we can better grasp the complex challenges faced by Latinas in accessing reproductive healthcare and rights. This understanding is essential for developing strategies and policies that address these injustices and work towards creating a more equitable and inclusive society for Latinas and their reproductive health needs.

By now it is understood that the challenges faced by Latinas manifest in a distinct overlapping matrix as illustrated in my data chapter. Disparities based on citizenship reveal that while those with citizenship status may not personally encounter additional barriers related to immigration, they are still subject to restrictive state policies and pervasive structural inequalities. Conversely, individuals lacking citizenship status experience more pronounced reproductive injustices within the matrix of oppression, often facing persecution and state violence such as deportation. Moreover, the data underscores how unequal educational attainment contributes to disparate employment outcomes, leading to income inequality influenced by occupation sector. Language barriers, shaped by colonial policies in regional states, further impede the self-development and self-determination of Latina individuals, exacerbating distinct regional disparities in states with significant Latina populations. If, as articulated by Young, domination and oppression are interconnected facets of structural injustice that often intersect in practice, then what Latinas endure collectively transcends mere reproductive injustice, encompassing injustice in its entirety. Embracing reproductive justice, through comprehending the structural inequalities that hinder Latinas self-determination and self-development can work towards dismantling systemic barriers and advocating for equitable access to comprehensive reproductive healthcare for all women, regardless of race or ethnicity, and ensure that policies never again go *Contra Ella*.



### CHAPTER 3: COMMITMENT TO THE WHITE CAPITALIST PATRIARCHY

#### UNDERSTANDING RACE-NEUTRAL POLICIES AND DISPARATE IMPACT

The structure of the draconian state of America, which permits its agents of structural institutions to go *Contra Ella* to maintain the White Capitalist Patriarchy is a realm I have yet to explain. While the matrix of oppression has been defined as the systemic interlockings of several inequitable structures that coalesce to reproduce Latina reproductive injustice, what enforces those inequitable structures placed by the White Capitalist Patriarchy for its benefit are race-neutral policies that cause disparate impact as well as the concept of multiracial whiteness, which are all administered by agents of maintenance. I will use this chapter to bolster how we must not think of the White Capitalist Patriarchy as separate from race-neutral laws/policies and multiracial whiteness because the systemic nature that impedes reproductive injustice

necessitates the enforcement of both of these frameworks which are rooted in reinforcing the white capitalist patriarchy and obstructing Latina self-development and self-determination. Moving forward in the chapter *It's Not Just the Right and the Whites*, I will examine how agents of maintenance who are employed by the draconian state of America are persistent in perpetuating structural inequalities for their material benefit effectively impeding a Latina's self-determination and self-development, but for now, I will reflect on the 2 frameworks that agents of maintenance are part of when they go *Contra Ella*.

While contemporary legislation may not overtly articulate racial biases as blatantly as historical examples such as the Chinese Exclusion Act of 1882 or Operation Wetback of 1954, it would be misguided to assume that efforts to embed such biases into law have ceased. While explicit discriminatory laws like those mentioned may not be prevalent, the continual resurgence of Asian hate speech and violence against Latino immigrants vividly illustrates that the vestiges of bigotry still fester within society, not only perpetuated by inflammatory rhetoric but also as discriminatory legislative practices.<sup>96 97</sup> What demonstrates this is the passage of civil rights legislation but still the remnants of disparate impact. The notion that civil rights legislation alone can eradicate entrenched racism within institutions built upon racist ideologies is not only fallacious but detrimental to the pursuit of genuine racial equity and justice. It perpetuates the fallacy of race-neutral policies, falsely assuming that equal treatment under the law will automatically result in equitable distribution of social and economic benefits among all racial groups. This oversimplification disregards the enduring legacy of centuries of sexist and racist

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<sup>96</sup> Randall. 2022. "Trump Reignites Anti-Asian 'China Virus' Rhetoric –." AsAmNews. <https://asamnews.com/2022/11/18/racism-scapegoating-anti-asian-hate-donald-trump/>

<sup>97</sup> Kamasaki, Charles. 2021. "US Immigration Policy: A Classic, Unappreciated Example of Structural Racism." *Brookings*. <https://www.brookings.edu/articles/us-immigration-policy-a-classic-unappreciated-example-of-structural-racism/>

policies that have systematically created and reinforced structural barriers to prosperity, safety, and equity for marginalized communities.

For instance, while Title IV in the Civil Rights Act of 1968 enacted the Fair Housing Act which was intended to combat housing discrimination based on race, color, religion, national origin, sex, disability, or familial status, its promises have often fallen short in practice. Despite its enactment, African Americans continue to experience disproportionately low rates of homeownership decades later, underscoring the persistent gap between the ideals of the legislation and the harsh realities faced by marginalized communities.<sup>40</sup> Michelle Adams elaborates on this by stating that “the law has never fully delivered on its promise to promote and further integration.”<sup>98</sup>

While Dobbs has ostensibly presented itself as racially neutral, its ramifications reverberate disproportionate impact among states that are populated by large Latina communities due to the intersectional matrix of oppression overlapping burdens they face. Despite the absence of explicit racial targeting within the legislation like those of the past, the palpable impact persists, intricately woven into the fabric of material conditions and societal burdens. This disparity is not dictated by the language of the law, but rather by the systemic inequities deeply ingrained in the foundations of white supremacist capitalist patriarchy continually hindering Latina self-development and self-determination.

## MULTIRACIAL WHITENESS

In 2021, Cristina Beltrán wrote an article for the Washington Post on how “Multiracial

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<sup>98</sup> Adams, Michelle. 2018. “The Unfulfilled Promise of the Fair Housing Act.” *New Yorker* (New York, N.Y.: 1925). <https://www.newyorker.com/news/news-desk/the-unfulfilled-promise-of-the-fair-housing-act>

whiteness reflects an understanding of whiteness as a political color and not simply a racial identity — a discriminatory worldview in which feelings of freedom and belonging are produced through the persecution and dehumanization of others.”<sup>99</sup> When Beltrán published her opinion piece on why Latinos are attracted to Trump in the *Washington Post* her work was received with both acclaim and disdain. She delved into the phenomenon of people of color aligning with the political right and embracing Trumpian beliefs, attributing it to the concept of multiracial whiteness. Multiracial whiteness, she posited, is a nuanced aspect of white supremacy, suggesting that whiteness functions as a fluid and evolving construct shaped by historical legacies such as slavery and indigenous dispossession. Beltrán argued that while traditional notions of whiteness were rooted in homogenous spaces, contemporary dynamics of mobility and equality have led to the emergence of a multiracial elite, and because of that variation, those homogenous spaces became heterogeneous not just in race but ideology. However, she underscored that despite this diversity, whiteness persists as a discriminatory force, adapting to the nation's evolving racial and gender landscape. Beltrán's core contention is that whiteness is no longer uniform but rather variable, carrying with it an inherent expectation of privilege within a society ostensibly founded on principles of equality. This expectation of privilege persists among those who adhere to the core tenets of white supremacy and its discriminatory practices.

Beltrán's argument hinged on the observation that democratic practices, even when exercised by a multiracial populace, often reflect whiteness as a systemic force of oppression, perpetuating discrimination against marginalized groups. She points out that people of color can also contribute to this disenfranchisement, as evidenced by events like the resurgence of white

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<sup>99</sup> *Washington Post* (Washington, D.C.: 1974). 2021. “To Understand Trump’s Support, We Must Think in Terms of Multiracial Whiteness,” January 15, 2021. <https://www.washingtonpost.com/opinions/2021/01/15/understand-trumps-support-we-must-think-terms-multiracial-whiteness/>.

supremacist groups such as the Proud Boys and the storming of the US Capitol on January 6, 2021. These incidents not only underscored the enduring influence of white supremacist ideologies in American society but also revealed the manifestation of multiracial whiteness within the insurgency. For instance, Henry "Enrique" Tarrío, a convicted seditionist and leader of the Proud Boys, and Ali Alexander, an African American and Arab descent far-right activist who organized the Stop the Steal campaign, were prominent figures associated with these events. However, this does not imply that explicit white supremacist ideologies have disappeared. Clearly, policies enacted during the Trump administration, such as the Muslim travel ban and the separation of migrant families at the US-Mexico border, underscored the enduring presence of racialized policies and discrimination within government institutions by white individuals. Despite these overt displays of racism, scholars like Beltrán recognize that forms of racial privilege and inequality persist across various sectors of society, despite the increasing visibility of multiracial populations in media and other societal domains. Moreover, the recent pushback against diversity initiatives, such as the prohibition of Critical Race Theory in schools and the scaling back of affirmative action programs, reflects a broader resistance to efforts aimed at addressing systemic racism and promoting inclusivity, both among white individuals and people of color. Therefore, in today's political climate, comprehending multiracial whiteness crucial for advancing racial justice and equity. It elucidates how individuals from diverse racial backgrounds can still perpetuate and benefit from systems of the white capitalist patriarchy, whether consciously or unconsciously. By acknowledging the complexities of racial identities and power dynamics, we can devise more effective strategies for dismantling racial oppression and inclusively reproductive injustice to foster genuine equity and an end to going *Contra Ella*.

However, while the control of a woman's reproductive choice has mostly been

vehemently opposed on the end of conservatives, democrats have played a role in enabling the current provision of policies concerning birth control. The Women's Health Protection Act, created in 2013 was meant to ensure the removal of abortion bans and restrictions as it is fundamental to reproductive justice and upholding the human right to maintain bodily autonomy and reside in safe, sustainable communities.<sup>100</sup> The act is also meant to protect those most adversely affected by abortion restrictions, who are often individuals already confronted with discriminatory obstacles to access in healthcare—specifically, Black, Indigenous, Latina/x people, Asian Americans and Pacific Islanders, as well as other people of color, women, and individuals grappling with financial hardship. Regrettably, despite numerous endeavors, the enactment of the WHPA into law remains elusive. While political polarization undoubtedly contributes to this gridlock, culpability cannot be singularly attributed to ideological divides. While Democrats generally espouse greater support for reproductive rights than their Republican counterparts, scrutiny befalls the party's approach to prioritizing and safeguarding these rights and undocumented Latinas bear the brunt of their reproductive realities of not being able to be self-determined and self-developed.

## THE CAPITALIST WHITE PATRIARCHY

Whereas academics like Pierre L Van der Berghe, define Herrenvolk Democracy as being democratic for the master race but tyrannical for subordinate groups, David Roediger supplements the notion of Herrenvolk as Herrenvolk Republicanism, which is rooted in a

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<sup>100</sup> The Women's Health Protection Act - #ActForAbortionAccess." 2021. Act for Women. <https://actforwomen.org/the-womens-health-protection-act/>



racialized belief in popular sovereignty and the rule of law.<sup>101</sup> Roediger challenges the notion of Herrenvolk democracy, arguing that white people gain little from it except a “psychological Push.” However, Beltrán challenges Roediger's politics of Herrenvolk Republicanism in *Wages of Whiteness*, asserting that regardless of the class and status differences among whites, the practice of exerting dominance over vulnerable groups appealed to democratic ideals.<sup>102</sup> This practice, she argues, empowers all white individuals to partake in domination, placing the power to dominate in the hands of every white person. According to Beltrán's conception of Herrenvolk Democracy white citizens were offered more than psychological gain but as well as material gain, and political satisfaction as subjects protected by the law. Beltrán's argument is pivotal in understanding reproductive injustice for Latinas because it shows that whiteness was a key proponent for white advancement and tied into the notion of advancement and democratic protections and freedoms is the notion of motherhood. As previously underscored, who was allowed to mother was a racialized topic that excluded anybody who was inferior including impoverished whites who were deemed cognitively degenerative.

While Beltrán's work *Cruelty as Citizenship* delves into Herrenvolk Democracy and highlights how cruelty is not only a democratic phenomenon but also a return to a specific civic experience, she emphasizes the need to reconceive whiteness not just as a discriminatory practice but as a distinct type of democratic practice.<sup>103</sup> While I concur with Beltrán's perspective, I propose that it would be more insightful to explore this concept in the context of reproductive injustice rather than solely focusing on democratic practices. Beltrán's theory enriches my own,

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<sup>101</sup> Vickery, Kenneth P. “‘Herrenvolk’ Democracy and Egalitarianism in South Africa and the U.S. South.” *Comparative Studies in Society and History* 16, no. 3 (1974): 309–28.

<sup>102</sup> (59) Roediger, D.R. 1991. *The Wages of Whiteness: Race and the Making of the American Working Class*. Verso.

<sup>103</sup> Beltrán, Cristina. *Cruelty as Citizenship: How Migrant Suffering Sustains White Democracy*. University of Minnesota Press, 2020.

particularly my argument of going *Contra Ella*, because it elucidates that Whiteness as a dynamic political project has evolved from the overt displays of the White Capitalist Patriarchy.

Beltrán contends that today's white democracy persists even without legal endorsement, asserting that white democratic practices endure as a form of social power. However, it would be inadequate to overlook the emergence of a multiracial elite and a transformation in the understanding and enactment of white identity. To truly grasp Whiteness beyond its democratic facade, Beltrán suggests that recognition of Whiteness is more than mere racial identity; it is a complex political construct. Beltrán echoes this perspective in her work *Cruelty as Citizenship*, suggesting that Whiteness operates as an ideology that benefits its adherents through racial exclusion, violence, and domination, shaping perceptions of community, opportunity, futurity, and possibility. Importantly, this also implies that individuals of non-white backgrounds can participate in this ideology, leading to the emergence of multiracial Whiteness.

“The simultaneous experience of public happiness and racial tyranny is precisely what freedom and equality felt like in an earlier era of Herrenvolk democracy. In other words, whiteness needs to be reconceived not only as a discriminatory practice but as a particular type of democratic practice.”<sup>104</sup> In tracing America's progress from the era of chattel slavery to its purported embrace of citizenship beyond whiteness, my focus shifts to the intricate landscape of Latina citizenship, because as adherents to the social contract, they deserve to have self-determination and self-development beyond the pursuit of reproductive justice.<sup>105</sup> Latina citizenship faces profound challenges due to reproductive injustice, which curtails their

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<sup>104</sup> *Ibid.* 19

<sup>105</sup> Within the framework of my argument, it is imperative to recognize that the social contract was never designed to ensure protection for documented citizens, as evidenced by its historical exclusion of black individuals and women. Given this historical precedent, it becomes evident that there was no security afforded to immigrants within the social contract. Whiteness, as a construct, has systematically marginalized immigrants, portraying them as foreign entities for the purported benefit of cultivating a racially homogeneous America, as demonstrated in Leslie J. Reagan's work on the criminalization of abortion.

autonomy and potential for self-determination. While informal rights claims may offer solace to some marginalized Latina communities, their efficacy in relation to reproductive justice varies across different segments such as income mobility and language access. However what stands regardless of Latina citizens and those Latinas who are undocumented is how regardless of how their integration and participation look within key societal institutions such as the economy, politics, and civil society they are still not living up to their white counterparts. This is further underscored in the next chapter with my data, signifying that collectively both documented and undocumented Latinas bear the brunt of reproductive injustice.

#### CHAPTER 4: IT'S NOT JUST THE RIGHT AND THE WHITES

While we have examined how the two frameworks of multiracial whiteness and race neutrality in laws and policy work in tandem with one another as facets of the white capitalist patriarchy, what is left to be reflected on is how agents of maintenance are employed by draconian America to administer control over Latina reproductive justice. I begin this analysis by looking at the Social Contract, a promise made to all those who relinquish part of their freedoms to the state so in return there can be protection for themselves and their beliefs. I leverage the concept of the social contract to illustrate that democracy's foundation rests on the principle that

self-determination and self-development are fundamental rights of citizenship. However, given that the social contract is inherently influenced by racism and sexism, perpetuated by the white capitalist patriarchy, it becomes imperative to examine how a Latina's interaction with agents of maintenance correlates with their position within the social contract as subordinate under democracy. Subsequently, I will illustrate the concept of going *Contra Ella* through poignant narratives recounting the violence inflicted upon Latina citizens and compare it with the experiences of violence endured by Latina immigrants. This comparison serves to underscore the state's betrayal—while ostensibly championing democratic ideals and diverse faces in high places, it simultaneously perpetuates the matrix of oppression. Moreover, the state employs strategies of multiracial whiteness and race-neutral legislation to empower agents of maintenance in impeding Latina self-determination and self-development.

## SUBORDINATION UNDER DEMOCRACY

One could argue that the social contract forms the bedrock of democracy, constituting a reciprocal agreement centered on safeguarding both protection and individual liberty. As a political science student, it is probably one of the first principles in political theory you learn. As a theory, it posits that individuals consent to surrender part of their freedoms and submit to the authority of a government in exchange for the protection of their remaining rights and the maintenance of social order. In democracy, the legitimacy of government derives from the consent of the governed, which is a central tenet of social contract theory. Citizens participate in the political process through voting and other means to choose their representatives and shape public policy. This participation reflects their ongoing consent to the government's authority,

reinforcing the principles of the social contract. Democracy embodies the sovereignty of the people and their collective right to determine the laws and policies that govern them, reflecting the idea of mutual consent and agreement inherent in the social contract.

Numerous challenges and theoretical quandaries emerge from the concept of the social contract, particularly when one consents to relinquish certain freedoms and acquiesce to governmental authority in exchange for the protection of societal order. Yet, the social contract's failure to engage with real-world implications, such as race and gender, unveils its hidden power dynamics and underlying inequalities, despite its portrayal as a voluntary agreement among equals. In *The Sexual Contract*, Carol Pateman delves into the gendered implications of traditional social contract theory. She argues that classical theorists like Hobbes, Locke, and Rousseau constructed their theories on the implicit assumption of male supremacy, thereby excluding women from full participation and subjecting them to male authority. Pateman contends that the establishment of a "sexual contract" perpetuates patriarchal dominance and institutionalizes women's subordination within society. A pivotal moment in Pateman's work elucidates women's subjugation under fraternal patriarchy, wherein she posits that "men's rights to women's bodies are exercised in the public market as well as in private marriage, and patriarchal right is exercised over women and their bodies in ways other than sexual access."<sup>106</sup>

In Charles Mills' *The Racial Contract*, another moment in the social contract becomes immersed in the notion that in democracy, the legitimacy of government derives from the consent of the governed, a central tenet of social contract theory. Mills critiques traditional social contract theory for its failure to acknowledge or address the racial hierarchies inherent in social and political structures, calling for a reevaluation of political philosophy to account for the racial

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<sup>106</sup> (133) Pateman, Carole. *The Sexual Contract*. Germany: Polity Press, 2018.

injustices embedded within modern societies. Mills states that “correspondingly the ‘consent’ expected of white citizens is in part conceptualized as a consent whether explicit or tacit, to the racial order, to white supremacy, what could be called Whiteness.”<sup>107</sup> At the heart of Mills’ argument lies a profound critique of the social and political structures shaping the modern world. He argues that racism is not merely individual prejudice, but a fundamental aspect of the global order, deeply ingrained in society’s fabric. Through centuries of slavery, colonization, and discrimination, white individuals have systematically oppressed and exploited non-white populations, amassing wealth and power at their expense. This exploitation persists today, with non-white communities facing systemic barriers to economic advancement and social mobility. The racial contract, Mills suggests, is evident not only in overt acts of discrimination but also in the underlying assumptions and biases permeating every aspect of society, from politics and law to culture and academia. The moment I would like to center along with Pateman’s work on the sexual contract is “Whiteness is not really a color at all, but a set of power relations.”<sup>108</sup>

I draw upon the perspectives of Pateman and Mills regarding the social contract to inaugurate this chapter from an intersectional standpoint, which considers the influence of the white supremacist capitalist patriarchy on the concept of citizenship. This approach aims to uncover the inherent paradox in democracy’s promise of security in exchange for individual rights, often conflicting with its intended goals. Mills’ seminal work, “The Racial Contract,” marks the inception of the acknowledgment that Whiteness transcends mere identity to encompass a complex web of power structures embedded within democratic systems. Subsequently, in his later publication, *White Right: The Idea of Herrenvolk Ethics*, Mills further expounds upon the concept of Herrenvolk, elucidating how it permits privileged individuals to

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<sup>107</sup> (14) Mills, Charles. W. *The Racial Contract*. Cornell University Press, 1997.

<sup>108</sup> *Ibid.* 127

espouse both liberal egalitarianism and uphold racial hierarchy simultaneously.<sup>109</sup> In *The Disorder of Women*, Carole Pateman boldly asserts that the marginalization of women in the political realm isn't a mere coincidence but rather an inherent aspect of democratic ideologies themselves. She doesn't hold back in critiquing traditional democratic theories like the social contract, which she argues actively perpetuates the exclusion of women from public participation. Pateman's words resonate with urgency: "In a world presented as conventional, contractual, and universal, women's civil position is ascriptive, defined by the natural particularity of being women; patriarchal subordination is socially and legally upheld throughout civil life, in production and citizenship as well as in the family."<sup>110</sup> Here, Pateman's analysis cuts through the veneer of democracy's supposed fabric of equality, laying bare how societal norms and legal structures systematically enforce women's subordinate status across various domains, from the workforce to citizenship and within the family unit. If we consider Latinas through the lens of Herrenvolk ethics, they find themselves excluded from the category of Whiteness. Moreover, within the democratic framework promised by the social contract, women experience patriarchal subordination from the workforce to citizenship and within the family unit. Latinas' individualism within the framework of the social contract is defined by the intersection of their Latinidad and the persistent exclusion of women, which relegates them to a subordinate position in citizenship and beyond, thereby placing them in a precarious situation within American democracy.

I propose this observation to catalyze a critical inquiry into whether Latinas are relegated to the status of marginalized assets of the state, rather than being granted genuine inclusion and

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<sup>109</sup> (182) Mills, Charles W. (1998). 7. White Right: The Idea of a Herrenvolk Ethics. In *Blackness Visible: Essays on Philosophy and Race*. Cornell University Press.

<sup>110</sup> (42) Pateman, Carole. *The disorder of women : democracy, feminism, and political theory*. United States: Stanford University Press, 1989.



participation in democracy. The concept of citizenship wasn't explicitly defined by the founding fathers of our Constitution; rather, it was discussed within the broader context of "the people of the United States." Citizenship, much like race, is not static. Instead, both are intertwined, performing dynamic and contradictory roles, perpetuating hierarchy and exclusion while also incorporating new forms of mobility and inclusion. The introduction of the term "Hispanic" by the US government in the 1970s provided a simplified means to essentialize and bureaucratize Latinidad as a category, facilitating a form of positioning within the racial hierarchy established in population surveys and general data inquiries into identification. However, the racial position of Latinos has always been ambiguous. At various points, they have been characterized as White, Nonwhite, Indigenous, Black, and Nonblack. Scholars note that, in a more general sense, Latinos do not occupy a straightforward position in the US racial order.

While citizenship, is traditionally defined as a designated legal status and a relationship between an individual and the nation-state that dictates their political membership in society, Suzanne Obler presents a broader perspective. She defines citizenship not only as a legal status but also as a reflection of the relative equality among social actors and the practical implications of the common good. From Obler's viewpoint, citizenship is constitutive of the self-understanding of a community, an inclusive and ongoing process grounded in the negotiated participation of all groups, sectors, and individuals within the community. However, she highlights the contemporary challenge to this understanding of citizenship, as it has been reduced to merely the right to vote, neglecting active participation in collective decision-making and empowerment. Obler reminds us that Americans are heirs to those who envisioned a government of, for, and by the People, who fought for their rights and the rights of others, thereby establishing the notion of American citizenship. Yet, she argues, contemporary Americans have

regressed from active, responsible members of the polity to a position resembling subjects, subjected not to a crown, but to an ever-centralizing state.

## VIOLENCE ON THE LATINA CITIZEN: TEXAS VS ROSIE JIMINEZ, MARLISE MUÑOZ, AND LIZELLE GONZALEZ

Born into a Mexican American family of twelve children, Rosie Jimenez grew up amidst the struggles of poverty, her parents laboring as migrant farm workers. As a single mother reliant on welfare in the socially conservative landscape of McAllen, Texas, she was steadfast in her resolve to carve out a brighter future for herself and her daughter, Monique. Her dreams led her to enroll at Pan American University in McAllen in 1974, with aspirations of becoming a special education teacher. In September 1977, Jimenez faced a pivotal moment upon discovering her pregnancy. Balancing the demands of parenthood with her academic pursuits, she made the difficult decision to undergo an abortion.

However, her options were starkly limited by the recent passage of the Hyde Amendment, championed by U.S. Representative Henry Hyde.<sup>111</sup> <sup>112</sup>Intended to curtail abortion access for all women, regardless of socioeconomic status, the legislation inadvertently pushed vulnerable women into perilous circumstances. In the ensuing months, Jimenez and several others found themselves in the emergency room, grappling with complications arising from unsafe, illegal abortions due to the unavailability of Medicaid coverage. Despite the financial

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<sup>111</sup> “Access Denied: Origins of the Hyde Amendment and Other Restrictions on Public Funding for Abortion.” 2005. American Civil Liberties Union. <https://www.aclu.org/documents/access-denied-origins-hyde-amendment-and-other-restrictions-public-funding-abortion>

<sup>112</sup> Salganicoff, Alina, Laurie Sobel, Ivette Gomez, and Amrutha Ramaswamy. 2024. “The Hyde Amendment and Coverage for Abortion Services under Medicaid in the Post-Roe Era.” KFF. <https://www.kff.org/womens-health-policy/issue-brief/the-hyde-amendment-and-coverage-for-abortion-services-under-medicaid-in-the-post-ro-e-era/>

strain, Jimenez remained resolute in her decision not to utilize her financial aid check, determined to pursue her education. Tragically, the night following her abortion, Jimenez developed a severe infection, leading to hemorrhaging and organ failure. Rushed to McAllen General Hospital, she fought for seven days in intensive care before succumbing to the infection at the tender age of 27. Her untimely demise serves as a poignant testament to the dire consequences of policies that restrict government funding to access safe and legal abortion care.<sup>113</sup>

Marlise Muñoz was a 33-year-old woman who tragically became the center of a highly publicized legal and ethical controversy in late 2013 and early 2014. She resided in Fort Worth, Texas, with her husband, Erick Muñoz, and their young son. Marlise was employed as a paramedic, and by all accounts, she was a vibrant and devoted mother and wife. The controversy surrounding Marlise Muñoz erupted when she collapsed in her home on November 26, 2013, due to what was later determined to be a pulmonary embolism. She was found by her husband, Erick, who quickly called emergency services. Unfortunately, despite efforts to revive her, Marlise was declared brain dead upon arrival at the hospital. Marlise was 14 weeks pregnant at the time of her collapse, which added a complex layer to her medical situation. Texas law at the time prohibited

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<sup>113</sup> Garcia-Ditta, Alexa. 2015. "What a 38-Year-Old Abortion Story Can Teach Us Today." The Texas Observer. November 3, 2015. <https://www.texasobserver.org/rosie-jimenez-abortion-medicaid/>.

the withdrawal of life-sustaining treatment from pregnant women, regardless of their medical condition.<sup>114 115</sup>

This law, known as the Texas Advance Directives Act, sparked a legal battle over Marlise's fate. Erick Muñoz, supported by Marlise's parents, argued that his wife had made it clear to him that she would not want to be kept alive by artificial means in such a situation. He petitioned the hospital to remove Marlise from life support, citing her wishes and the irreversible nature of her condition. However, the hospital refused, citing the state law that prohibited them from doing so because of Marlise's pregnancy. The case gained national attention and ignited debates about medical ethics, reproductive rights, and end-of-life care. Critics of the law argued that it violated Marlise's autonomy and subjected her to unnecessary suffering. Supporters of the law cited concerns for the welfare of the fetus and argued that it was designed to protect unborn children. After weeks of legal battles, a judge ruled in late January 2014 that the hospital could remove Marlise from life support. She was officially declared dead on January 26, 2014, and her body was released to her family for burial. 62 days passed between Marlise Muñoz's collapse on November 26, 2013, and her official declaration of death on January 26, 2014.<sup>116</sup>

Rio Grande City resident and Texas native, Lizelle Gonzalez was only 26 years old when she was arrested and charged with murder for allegedly self-inducing an abortion on April 7,

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<sup>114</sup> In July 1999, in Houston, Texas, Tammy Martin was admitted to a hospital while 15 weeks pregnant and in a comatose state. Under the Texas Advance Directives Act, Section 166.049, she was mandated to be kept on life support, as she was not yet declared brain dead but merely in a coma. Despite her relatives advocating for the discontinuation of life-sustaining measures, her purported common-law husband insisted on their indefinite continuation to protect the fetus. Initially, the court directed the hospital to maintain Martin's treatment. However, after healthcare professionals later diagnosed her as brain dead, the court promptly reversed its decision. - Wendy Adele Humphrey, *"But I'm Brain-Dead and Pregnant": Advance Directive Pregnancy Exclusions and End-of-Life Wishes*, 21 Wm. & Mary J. Women & L. 669 (2015), <https://scholarship.law.wm.edu/wmjowl/vol21/iss3/4>

<sup>115</sup> TX Health & Safety Code § 166.049 (2019)

<sup>116</sup> Vogel L. Legal storm brewing over Texas forced life-support case. CMAJ. 2014 Feb 18;186(3):E107-8. doi: 10.1503/cmaj.109-4704. Epub 2014 Jan 20. PMID: 24446461; PMCID: PMC3928228.

2022. Gonzalez first went to the Starr County emergency room in January 2022. She was 19 weeks pregnant and, according to the lawsuit, had taken Cytotec, also known as misoprostol, to purportedly induce an abortion. She was still registering a fetal heart rate, so she was sent home. The next day, she returned to the hospital by ambulance, complaining of abdominal pain and vaginal bleeding. There was no fetal cardiac activity, and she was diagnosed with an “incomplete spontaneous abortion” before she delivered the stillborn child by cesarean section.

At some point between those January visits and late March 2022, employees of Starr County Memorial Hospital told the Starr County District Attorney’s Office about Gonzalez’s attempted abortion. The allegations were investigated directly by Starr County District Attorney Gocha Allen Ramirez and Assistant District Attorney Alexandria Lynn Barrera, not the sheriff or the local police department. Barrera and Ramirez then took their findings to a grand jury. When she was arrested on April 7, 2022, and incarcerated at the Starr County jail on a \$500,000 bond, her arrest made international news and mobilized activists across the country, led by organizers in the Rio Grande Valley. Gonzalez was released on bail organized by national advocacy groups. Three days after she was arrested, Ramirez dropped the charges. As of March 30th, 2024, Gonzalez is asking for over \$1 million for the "deprivation of liberty, reputational harm, public humiliation, distress, pain, and suffering" she experienced due to the prosecution. No hearing dates have been set.

These cases while they have their stark differences and complexities, are poignant illustrations of how the state of Texas infringes on the reproductive health of Latinas. The cases of Rosie Jimenez, Marlise Muñoz, and Lizelle Gonzalez represent the diversity in punitive state action contra ella. Occurring at different points and political landscapes of abortion accessibility, these cases detail how state control dictated their fate, Rosie Jimenez epitomizes the economic

hurdles obstructing reproductive access. Her tragic story underscores the dire consequences of the Hyde Amendment's denial of Medicaid coverage for abortion expenses. Unable to afford the procedure, she tragically lost her life while attempting to defy the financial constraints imposed by the state. This narrative carries profound significance, highlighting Rosie's ordeal as the inaugural casualty of the Hyde Amendment, a pivotal moment in abortion policy. Her experience resonates as a harbinger of a broader trend, wherein the cessation of Medicaid funding precipitated a steep decline in abortion rates. Following Hyde's official implementation in 1976, the annual number of abortions, which stood at 300,000 just three years after *Roe v. Wade*, plummeted to a mere fraction, underscoring how the state exercises control contra ella, through legislative interventions on reproductive rights.

Marlise Muñoz arguably the most emotional case to read just as the most absurd, was a stark representation of the irrationality of patriarchal laws that damn the body of the Latina. In no way was forcing a braindead woman to gestate a fetus while her body rots and decomposes free of policing a Latinas reproductive conduct. Under the Texas Advance Directives Act, Section 166.049, provides that “a person may not withdraw or withhold life-sustaining treatment under this subchapter from a pregnant patient.” However, according to the Act's specification, "life-sustaining treatment" pertains to interventions that uphold a patient's life, becoming redundant upon the patient's demise. Texas courts consistently interpret this provision as inapplicable posthumously, as illustrated by the Houston case involving Tammy Martin, where treatment was initially ordered for a comatose pregnant individual but revoked upon her passing. However, in the case of Muñoz's brain death, the consideration of cardiopulmonary assistance as "life-sustaining" appears paradoxical, given the law's stipulation that only living pregnant women

require such intervention to be sustained. Thus, it prompts reflection on why Marlise Muñoz was treated as an exception within the state's legal framework.

In contrast, Lizelle Gonzalez's case stands as a stark reminder of the persistent obstacles confronting Latina women in their pursuit of abortion care within restrictive legal frameworks. In an era defined by the Dobbs precedent and the authoritative role of state agents in upholding regional jurisdiction, the utilization of legal enforcement mechanisms profoundly amplifies the encroachment upon reproductive rights. Gonzalez's arrest and subsequent murder charges for allegedly self-inducing an abortion not only highlight the detrimental effects of criminalizing reproductive healthcare and the ramifications of defying state mandates but also reveal the state's readiness to infringe upon procedural norms to dictate women's reproductive choices. In Gonzalez's ordeal, the investigation deviated from standard protocols and sequential order, with allegations prompting an unprecedented breach of the federal investigation process, effectively circumventing legal order to enforce control over a woman's reproductive outcome. This case serves as a poignant illustration of the lengths to which authorities are willing to go to exert control over a Latinas reproductive autonomy.<sup>117</sup>

Texas, with its significant Latina population, solidifies the subjugation of Latinas under the authority of state agents. This inherently implies that their reproductive conduct is also encompassed and reinforced by the pervasive authority wielded by these agents. While regional jurisdictions like Starr County District Attorney Gocha Allen Ramirez enforce this authority, it is ultimately the white supremacist patriarchy that dictates Texas's policies. The white supremacist patriarchy is committed to perpetuating the subjugation of women under the guise of race-neutral

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<sup>117</sup> Klibanoff, Eleanor. 2024. "Texas Woman Charged with Murder for Self-Induced Abortion Sues Starr County District Attorney." *The Texas Tribune*, March 30, 2024. <https://www.texastribune.org/2024/03/30/texas-woman-sues-abortion-arrest-starr-county/>.

policies, which, in reality, are informed by gender biases. These policies create intersections of impact, as evidenced in cases like Jiminez's, whose income did not meet the threshold for affording an abortion, or the exception made under TX Health & Safety Code § 166.049 for Muñoz, who was unjustly posthumously treated as an incubator for an unborn individual. Similarly, cases like Gonzalez's highlight how reproductive services only legally allow her to give birth, further illustrating the various facets of reproductive oppression. However, the root of this oppression extends beyond regional jurisdictions to encompass the broader systemic limitations and repression of women's autonomy.

## VIOLENCE ON THE DETAINED LATINA IMMIGRANT

The Center for Immigration Studies categorizes immigration detention centers as civil institutions designed to ensure the presence of aliens at removal proceedings and facilitate their actual removal.<sup>118</sup> Under this notion, the purpose of immigration detention centers is principled on the ability to contain and remove immigrants, this would soon change once privatization agendas entered the agenda for the industrial prison complex.<sup>119</sup> “For-profit” prisons in the United States date back to 19th Century California, However, the private prison movement did not gain modern appeal until the 1980's, just when the Latinx American population surged from 7.6 million in 1970 to 14 million in 1980.<sup>120</sup> A private prison, also referred to as a for-profit prison, is a facility where individuals are confined by a third-party entity contracted by a

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<sup>118</sup> Cis.org. <https://cis.org/Fact-Sheet/Why-Immigration-Detention-Necessary>

<sup>119</sup> “What Is the Prison Industrial Complex? – Tufts University Prison Divestment.” Tufts.edu. <https://sites.tufts.edu/prisondivestment/the-pic-and-mass-incarceration/>

<sup>120</sup> Cis.org. <https://cis.org/Fact-Sheet/Why-Immigration-Detention-Necessary>



government agency. These prisons frequently subject immigrants to harsh conditions and marginalization, extending beyond the need for detention related to "removal proceedings." This is due to the economic incentives driving private prisons to maintain population quotas, which incentivize the detention of more immigrants. As a result, often when a possibility of release is feasible it is seen that individuals may be transferred to other facilities rather than being released to ensure that quotas are met and economic benefits are obtained from having a full population of inmates.<sup>121</sup>

The connection between private immigrant detention facilities and Latina reproductive injustice lies in their shared link between going contra ella. While the primary focus of this thesis is on abortion accessibility, it's crucial to recognize another facet of state interference in Latina reproductive autonomy: the commodification of their bodies within for-profit immigration facilities. Undocumented Latinas, in particular, endure the brunt of societal ostracization and state-inflicted violations in their personal reproductive lives. This insidious practice, marked by intrusive and harmful gynecological violence, is effectively funded by the state. It serves as a poignant example of how the state continues to exert control over and infringe upon the autonomy of Latinas not just by determining their reproductive destinies but intervening in performing nonconsensual and unnecessary gynecological procedures.

Between 2017 and 2020, Dr. Mahendra Amin, an OB-GYN physician at the Irwin County Detention Center (ICDC) in Ocilla, Georgia, conducted a strikingly higher volume of invasive procedures on Immigration and Customs Enforcement (ICE) detainees compared to other physicians nationwide. Dr. Amin's procedures, which included Dilation and Curettage

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<sup>121</sup> Turner, Zach. 2015. "Immigrant Detention, Private Prisons and Minimum Occupancy Quotas." *Nnirr.org*. <https://nnirr.org/programs/u-s-immigration-issues-and-resources/immigrant-detention-private-prisons-and-minimum-occupancy-quotas/>

(D&C), laparoscopies, limited pelvic exams, and Depo-Provera injections, comprised a staggering 90% of all such procedures performed on ICE detainees during this period.<sup>122</sup> Notably, Dr. Amin's dominance in performing medical procedures on Immigration and Customs Enforcement (ICE) detainees is striking, with him conducting an astonishing 362 out of 401 of these procedures, representing a staggering 90% of the total.<sup>123</sup> Notably, Dr. Amin ranked among the top five providers for eight out of ten categories of OB-GYN procedures, and he performed nearly one-third of all OB-GYN procedures on ICE detainees nationwide between 2017 and 2020, despite the ICDC housing only about 4% of the female detainee population. His significant involvement is further underscored by receiving around half of all payments from ICE for these procedures, totaling approximately \$60,000 out of over \$120,400 spent on 1,201 OB-GYN procedures performed on ICE detainees between 2017 and 2020.

Notably, ICE does not monitor the use of language translation services by off-site medical providers or ensure informed consent for off-site medical procedures. Instead, ICE relies on these providers to fulfill their professional obligations in ensuring detainees understand and consent to the medical care they receive, raising concerns about the oversight and accountability in the provision of medical services to vulnerable populations in detention facilities.

Despite the grave allegations of medical malpractice against Dr. Amin, which prompted significant reforms in the evaluation of such misconduct by ICE, he maintains his medical license and exerts substantial influence in Irwin County. Amin holds the esteemed position of

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<sup>122</sup> In the early 1990s, two new temporary sterilization drugs were approved by the Food and Drug Administration for use in the USA: Norplant and Depo-Provera (approved in 1990 and 1992, respectively). Both are long-acting and provider-controlled contraceptives. - Volscho, Thomas W. 2011. "Racism and Disparities in Women's Use of the Depo-Provera Injection in the Contemporary USA."

<sup>123</sup> "Medical Mistreatment of Women in ICE Detention." 2022. Committee on Homeland Security & Governmental Affairs. <https://www.hsgac.senate.gov/subcommittees/investigations/hearings/medical-mistreatment-of-women-in-ice-detention/>

medical director for the labor and delivery department at Irwin County Hospital and is the proprietor of MGA Health Management, Inc., overseeing operations at Irwin County Hospital since 1996, the very site where the disturbing incidents of medical abuse unfolded. Legal documents stemming from a lawsuit divulge Amin's ownership interests in Irwin County Hospital. Remarkably, before the eruption of accusations against him, Amin was actively involved in trying to establish a clinic called "Amin Surgery for Women" he to practice in Irwin County.<sup>124</sup>

Ms. Castaneda-Reyes, a survivor of rape and domestic abuse, was detained at the Irwin County Detention Center (ICDC) from June to December 2020 following an arrest for possession of a controlled substance in May 2020. Upon her arrival at ICDC, she was appalled by the living conditions, which included spider webs, dirty underwear provided by staff, and discolored, undrinkable water. Seeking medical attention for a hernia, Ms. Castaneda-Reyes was referred to Dr. Amin, who conducted a pelvic ultrasound and diagnosed her with a right ovarian mass. Despite already being on birth control, Dr. Amin administered a Depo-Provera injection without her consent. During a follow-up appointment, Dr. Amin recommended surgery for the ovarian cyst, which Ms. Castaneda-Reyes underwent on September 4, 2020, without a thorough explanation of the procedures or adequate time to review consent documents. Post-surgery, she discovered from her medical records that Dr. Amin had performed a Dilation and Curettage (D&C) and a Loop Electrosurgical Excision Procedure (LEEP). Since her release from ICDC, Ms. Castaneda-Reyes has been informed by a physician that she cannot have any more children

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<sup>124</sup> Vásquez, Tina. 2021. "EXCLUSIVE: FBI Investigates Georgia Doctor Accused of Sterilizing Detained Women." Prism.<https://prismreports.org/2021/05/06/exclusive-fbi-investigates-georgia-doctor-accused-of-sterilizing-detained-women/>

due to a thin uterine lining, and she has experienced physical and mental health challenges, including constant leg pain and difficulty in performing daily tasks, leading to job loss.

Ms. Floriano Navarro, a 29-year-old mother of three daughters, was brought to the United States from Mexico when she was about eight years old by a family member. She was detained at the Irwin County Detention Center (ICDC) from October 2019 to September 2020 following an arrest for traffic violations. She described her experience at ICDC as living in horrendous conditions, characterized by darkness, dirt, and dehumanizing treatment of detainees. Ms. Floriano Navarro reported that the drinking water was consistently dirty and contaminated with rust, contributing to an atmosphere of fear and neglect. During her time at ICDC, Ms. Floriano Navarro complained of painful menstrual cramps for about five to six months before being referred to Dr. Amin. However, her encounters with Dr. Amin were fraught with discomfort and lack of consent. Referred to as "Mr. Two-Fingers" due to his invasive methods, Dr. Amin administered medical procedures without proper explanation or consent. Despite Ms. Floriano Navarro's confusion and discomfort, she was pressured into undergoing surgeries and procedures, including a Dilation and Curettage (D&C) procedure, which she ultimately refused due to her uncertainty about the nature of the surgery. In her medical requests submitted on August 20, 2020, Ms. Floriano Navarro expressed her concerns about the procedure and requested a rescheduling due to increased discomfort.<sup>125</sup> Despite her objections, she was scheduled for a D&C procedure on multiple occasions, leading to significant confusion and distress. On September 14, 2020, Dr. Amin diagnosed her with an ovarian cyst and questioned her decision to reject the surgery. Ms. Floriano Navarro was then rescheduled for a D&C procedure on September 18, 2020, but on September 16, 2020, she was deported to Mexico,

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<sup>125</sup> *No Consent: Did a Doctor Abuse Immigrant Women?* 2021. Al Jazeera.

where she currently resides, still grappling with the trauma and uncertainty of her experiences at ICDC and with Dr. Amin.

The testimonies of Castaneda-Reyes and Navarro are just two among many who have accused Dr. Amin of medical malpractice while detained in ICE facilities. These accounts not only shed light on instances of medical negligence but also highlight how immigration status and rights can impact the reproductive agency of Latina women. While the focus has been on cases where patients understood English, it's crucial to acknowledge that language barriers can exacerbate the issue. For instance, there are numerous instances where women who didn't speak English at the facility received medical procedures without fully understanding what was happening to them. This underscores the importance of language access in addressing Latina reproductive injustice, illustrating how beyond infringing on immigrant rights, inadequate language support further compounds the problem of reproductive justice.

The question of Dr. Amin's culpability is nuanced, as he operates within the confines of ICE's directives, fulfilling tasks for which he is remunerated. While he undoubtedly merits accountability for misleading authorities regarding the necessity of his interventions in these women's lives, his complicity is compounded by the financial gain he derives from such actions, exceeding that of most OB-GYNs. However, ICE has turned a blind eye, only spurred to action by the intervention of human rights advocates. Moreover, ICE deported six of the women victimized by Dr. Amin's malpractice before they could pursue avenues of redress through congressional or legal channels, underscoring the vulnerability of undocumented Latina women within the system. As subjects under governmental control, their fate hangs precariously, emblematic of a stark reality where their bodies are subjected to state authority, even to the extent of acting *contra ella*

## EL ESTADO TRIADOR CONTRA ELLA

When Starr County District State Attorney Gocha Ramirez and his Assistant District Attorney Alexandria Barrera violated Texas Penal Code 19.06, they acted against the interests of the law, going contra ella. Ramirez, both personally and through the acts of Barrera, allowed Barrera, who was under his direct supervision, to present a case to a grand jury that they knew was not supported by probable cause, as stated by the state bar. Additionally, Ramirez failed to take reasonable action to correct this violation of disciplinary rules or to refrain from prosecuting a charge that lacked probable cause. Ramirez agreed to pay \$1,250 in attorney fees and direct expenses. In their pursuit of murder charges against Lizzelle Gonzalez for actions not deemed criminal under the Texas Penal Code, Ramirez and Barrera presented false information and misrepresented facts to the grand jury providing false and misleading information and omitting crucial details, all to secure a murder charge on Lizzelle Gonzalez for an abortion.

In 2011, Steve Montenegro, serving as an Arizona State Senator and Republican representative for Litchfield Park, sponsored Arizona House Bill 2443, which includes provisions related to race and sex in abortions. The bill stipulates that knowingly performing an abortion sought based on the sex or race of the child or parent, or using force or the threat of force to coerce a sex-selection or race-selection abortion, constitutes a Class 3 felony. Following deliberation in the House, the bill garnered majority support and proceeded to the Senate, where it was successfully passed as legislation on March 29, 2011. Montenegro emphasized that the bill aimed to combat bigotry and discrimination rather than restrict a woman's legal right to abortion.

He argued that certain abortions are conducted due to preferences against having a daughter or a minority baby, framing the bill as an effort to uphold equal protection and eradicate offensive practices in a diverse society.

In contemporary times, a significant portion of Border Patrol agents identify as Latinx, while an increasing number of female, Black, and Latinx individuals are joining the ranks of police officers and prison guards. However, scholarly investigations into why Latinxs opt for careers in immigration law enforcement have yielded limited insights. While some scholars have posited potential motivations such as aspirations for social and economic advancement or the pursuit of assimilation, few have directly delved into this inquiry. David Cortez contends that ethnic identity holds little functional significance for Latinx immigration agents, who primarily perceive themselves as citizens, insiders, or soldiers rather than through the lens of their Latinx heritage. He asserts that the perceived distinction between "citizen" and "non-citizen" content shapes the dynamics between Latinx agents and migrants. Cortez's research indicates that Latinxs self-select into immigration agencies due to a detachment from their ethnic identity, a lack of resonance with the immigrant experience, and specific attitudes toward immigration. However, the precise underlying motivations remain ambiguous due to a lack of dedicated investigation.

According to interview data by Cortez, Latinxs employed in immigration law enforcement predominantly cite economic self-interest as their primary driver. Regardless of their personal stances on immigration, Latinx agents overwhelmingly prioritize financial considerations, job stability, and benefits when choosing to pursue careers in immigration enforcement. The decision to enter this field often stems from immediate economic imperatives rather than other motivating factors. The cases involving Starr County District State Attorney

Gocha Ramirez and his Assistant District Attorney Alexandria Barrera, Arizona State Senator Steve Montenegro, and numerous Immigration and Customs Enforcement officers along the border serve as stark examples of multiracial whiteness laid bare. I significantly look to these examples because they demonstrate that reproductive injustice can be perpetuated within the Latino community as a result of how multiracial whiteness practices the implementation of laws and through doing such a distinct attorney such as Gocha Ramirez or Senator like Steve Montenegro or I.C.E agent can work in coalition with the white supremacist capitalist patriarchy to act as civil agents of the state who dominate, displace, and exacerbate the practice of whiteness, effectively going *Contra Ella*.



## CONCLUSION - MOVING FORWARD; RECOGNIZING HOW THE CONCEPTION OF LEGALITY IS NOT JUSTICE

“Yes, in a few years or centuries  
la Raza will rise up, tongue intact  
Carrying the best of all the cultures.  
The sleeping serpent,  
rebellion—(r)evolution, will spring up.  
Like old skin will fall the slave ways of  
obedience, acceptance, silence.  
Like serpent lighting we’ll move, little woman.  
You’ll see.”

- Gloria Anzaldua, *Borderlands/ La Frontera*

In *Borderlands/ La Frontera, The New Mestiza*, Gloria Anzaldua talks about the culture of betrayal, elaborating that even in her own culture, she has never been approved as a lesbian. I resonate this with my conclusion because Anzaldua gives an account that strikes to the core of this argument, on cultural tyranny Anzaldua builds on the simple declaration that culture forms our beliefs and because of that we perceive the version of reality that it communicates.

“Dominant paradigms, predefined concepts that exist as unquestionable, unchallengeable are transmitted to us through the culture. Culture is made by those in power—men. Males make the rules and laws; women transmit them.” Her words illuminate the pervasive influence of dominant cultural norms, which often reinforce existing power structures and oppress marginalized groups. Anzaldua's exploration underscores the necessity of critically examining and challenging these paradigms to dismantle systems of oppression and create a more equitable society.

The intertwining narratives of current events paint a vivid picture of the intricate challenges facing reproductive justice in our nation. At the forefront is the pivotal Supreme Court case concerning mifepristone and misoprostol, medications essential to medication

abortion. The potential curtailment of these medications threatens to erect formidable barriers to accessing safe and timely abortion care, particularly in states burdened by stringent regulations. This looming threat casts a shadow over the broader landscape of reproductive healthcare, exacerbating existing disparities and compounding the struggles of marginalized communities. In the wake of this legal battleground, the recent rulings by the Florida Supreme Court stand as stark reminders of the relentless assault on reproductive rights. Upholding abortion bans signals a distressing regression, placing undue burdens on individuals seeking essential healthcare services. The ripple effects of such decisions reverberate disproportionately among those already marginalized, perpetuating systemic inequities and amplifying the obstacles faced by those most in need.

Amidst these tumultuous legal battles, the harrowing ordeal of Lizelle Gonzalez in Texas serves as a poignant testament to the human toll exacted by draconian abortion laws. Her arrest and subsequent ordeal—stemming from a deeply personal healthcare decision—underscore the chilling implications of legislative overreach. Gonzalez's plight epitomizes the harsh realities endured by individuals navigating a landscape fraught with hostility towards reproductive autonomy, despite legal provisions purportedly safeguarding maternal rights. Collectively, these events sound a clarion call for urgent action to safeguard reproductive rights and dismantle the structural barriers impeding access to essential healthcare services. They demand a steadfast commitment to upholding bodily autonomy and ensuring equitable access to comprehensive reproductive healthcare for all individuals, irrespective of socioeconomic status or racial background. Only through concerted efforts to dismantle oppressive systems and advocate for inclusive policies can we forge a future where reproductive justice is truly realized.

reproductive justice demands more than just a cultural shift away from patriarchy; Using Anzaldua's logic I delineate that, it requires confronting the various manifestations of patriarchy within our culture, whether embedded in legislative processes or implemented through enforcement. When women are forced to transmit laws through their bodies, it serves as a stark reminder that the grip of the white supremacist capitalist patriarchy still tightly controls women's lives. The unfortunate reality is that the phenomenon of going *contra ella*, is not a recent development; it is a consequence of the insidious ways in which racism, sexism, and classism have coalesced and have been perpetuated and sanitized to appear less overt and more acceptable within our legislative bodies, immigration and customs enforcement, and even within our own cultural norms. The manipulation of legal principles by those wielding power has long served as a tool for asserting patriarchal dominance, allowing them to sidestep constraints and perpetuate systems of oppression. Thus, the resurgence of reproductive injustice, while executed through different means, is rooted in familiar sentiments of control and subjugation.

Beyond its legal implications, the Dobbs decision reverberates throughout the broader socio-political landscape, perpetuating systems of oppression that disproportionately affect Latina communities. By upholding state authority over reproductive rights, Dobbs reinforces the hegemony of the white supremacist capitalist patriarchy. This system not only facilitates population control but also fuels the dissemination of demonizing rhetoric targeting Latinas and bolsters the political project of Whiteness as Democracy. Such rhetoric not only undermines Latina reproductive health but also poses a threat to their overall well-being, fostering an environment of hostility and marginalization.

Legality does not aim to achieve equity; rather, it is meant to uphold the principles of equality, as observed in states where the right to birth a child under a ban or restriction is equally

assigned to all women who reproduce. However, if equity were the goal of legality, many of the burdensome disparate impacts of motherhood would not persist, and reproductive healthcare would be readily available and accessible to everyone. For equity to foster reproductive justice, the government should abstain from involvement in women's lives and affairs, allowing them to be self-determined and self-developed individuals. Returning to the principles of self-development and self-determination, Iris Marion Young, in *Justice and the Politics of Difference*, identifies two social conditions that signify injustice: oppression, which involves institutional constraints on self-development, and domination, which entails institutional constraints on self-determination. These conditions impede individuals from fully realizing their potential and exercising agency in shaping their lives (Young 27). Young posits, "Change in the overall social patterns of racial and gender stratification in our society would require major changes in the structure of the economy, the process of job allocation, the character of the social division of labor, and access to schooling and training. Intersecting the oppressions of race and gender are the oppressions of class." (Young 118)

The notion of the self-determined and self-developed Latina assumes a paramount role within the framework of this thesis, serving as a luminous beacon of resistance against entrenched oppressive paradigms surrounding reproductive rights and the perpetuation of societal domination. These paradigms symbolize the enduring grip of the white supremacist capitalist patriarchy, acting as formidable barriers to Latinas' full realization of reproductive justice. In this context, whiteness emerges as a multifaceted political construct, undergoing a resurgence in its infiltrations of mainstream American politics. However, its manifestation has evolved beyond overt displays of racism, now thriving on subtler forms of oppression, such as symbolic racism embedded within seemingly race-neutral policies. This insidious transformation

underscores the complexity of contemporary racial dynamics, wherein the politics of whiteness are championed not only by those who identify as white but also by individuals who actively engage in the perpetuation of multiracial whiteness.

Anzaldua's closing remarks in the *New Mestiza* encapsulate the essence of this work's mission: to champion reproductive justice. The profound significance of her last words being “*la Raza will rise up, tongue intact, carrying the best of all the cultures....Like old skin will fall the slave ways of obedience, acceptance, silence*” demonstrates that there should be faith moving forward in challenging those who go *contra ella*, especially those within our own culture. Recognizing the vital role of self-development and self-determination in the lives of Latinas facing reproductive injustices, it is imperative to contextualize these struggles within a broader framework. reproductive justice cannot be viewed in isolation; rather, it intersects with various facets of social justice. It encompasses immigrant justice, economic justice, educational justice, employment rights, and occupational equality. True reproductive justice entails comprehensive reform across all these domains, acknowledging the interconnectedness of systemic inequalities and advocating for holistic solutions that address the multifaceted needs of marginalized communities. It is only then when like old skin will fall the slave ways of obedience, acceptance, and silence and we will no longer go *contra ella*.

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