

## ABSTRACT

Title of Dissertation: PATHOLOGICAL PREGNANCIES: THE TRUMP ADMINISTRATION'S ASSAULT ON MIGRANT WOMEN'S REPRODUCTIVE HEALTH AND HOW BROWN WOMEN ACTIVISTS SPOKE BACK TO POWER

Skye Cambre de Saint Felix, Doctor of Philosophy, 2022

Dissertation directed by: Professor Shawn J. Parry-Giles, Department of Communication

Abortion and immigration are two polarizing political issues in the United States. These issues were made more contentious under the Trump administration (2017-2021) that tapped into cultural and historical memories of abortion as a pathological practice. Situated at the intersection of abortion and immigration rights, migrant women's reproduction was treated as something to be monitored and controlled to preserve white patriarchal interests. The Trump administration capitalized on the racist and sexist tenets inherent to rhetorical pathology to construct an enemy in migrant women that only his administration was qualified to neutralize through deportation, arrest, and extreme legislation. Rhetorical pathology, in the context of anti-abortion and anti-migrant policies, resulted in contradictory commitments. For instance, the Trump administration and his supporters at once humanized the fetus, but dehumanized Brown women and children by blocking them from entering the country and accessing basic needs.

Administrative officials also argued that their anti-abortion platform prevented racial genocide by saving Black and Brown babies while they treated them as enemy threats to be purged from the country.

I ultimately argue that white supremacy and patriarchy are unifying ideologies in rhetorical pathology that help these contradictions “make sense” for Trump supporters and anti-abortion groups. In Chapter One, I examine the Trump administration’s efforts to force birth and block paths to citizenship for migrant girls by studying the case of Jane Doe and the abuses she faced in the Office of Refugee Resettlement Custody (ORR). In Chapter Two, I investigate how white supremacists and misogynists co-opted progressive rhetoric to undermine its force by analyzing Trump’s policies that heavily regulated migrant women’s reproduction. Such cruel and unconscionable actions included reinstating (and expanding) the Global Gag Rule and passing “conscience” legislation that allows healthcare providers to discriminate against healthcare they deem “immoral” like abortion care or emergency contraceptives. In this chapter, we also see how conservatives inverted progressive frames like “Black Lives Matter” to argue that “Babies Lives Matter” to fulfill an anti-choice agenda and describe themselves as abolitionists and saviors of Brown children.

In Chapter Three, I show the ways in which Brown women activists reappropriated the rhetorical power that conservatives mimicked to justify their inhumane policies. Activist women reclaimed their rhetorical power of definition, shared stories of both horror and community uplift, and used rhetorical secrecy to combat rhetorical pathologizations. Legislation in support of migrant women emphasized healing and care to undermine the rhetorics of pathology. This project ultimately exposes how rhetorical pathology operates in order to neutralize its power and center the voices and experiences of migrant women in abortion and immigration debates.

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by

Skye Cambre de Saint Felix

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Advisory Committee:  
Professor Shawn J. Parry Giles, Chair  
Associate Professor Perla Guerrero  
Associate Professor Kristy Maddux  
Assistant Professor Catherine Knight Steele  
Associate Professor Carly S. Woods

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## Dedication

I dedicate this dissertation to Mrs. Fletcher. I only met you once, but the fact that a total stranger was willing to pay for my elementary school education has never been lost on me. I always wanted to make you proud and I hope one day I get to thank you.

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## Introduction: Histories of Abortion Rhetoric and Migrant Women’s Reproductive Oppression

In September 2017, Jane Doe, 17, tried to migrate to the United States to escape gender-based violence and parental abuse in her home country.<sup>1</sup> She arrived at the U.S.-Mexico border eight weeks pregnant after having been raped during her long journey. Once detained at the border by the Office of Refugee Resettlement (ORR), she was denied the sponsor she needed to be released from the detention center and obtain the abortion she requested. The ORR, led by Scott Lloyd—a Trump administration appointee<sup>2</sup>—prohibited Doe from seeing a doctor on the grounds that providing her transportation to a clinic or releasing her from custody was “tantamount to facilitating abortion”<sup>3</sup> and the “destruction of human life.”<sup>4</sup> After the American Civil Liberties Union (ACLU) got involved in Doe’s case, they sued the ORR and the Department of Health and Human Services (HHS) in what became known as *Garza v. Hargan* (2018).<sup>5</sup> While Doe eventually received an abortion after weeks of being ignored and mistreated by the ORR, the ACLU uncovered a number of other pregnant women in immigration custody who faced similar injustices. Doe’s story, and later Jane Poe and Roe’s stories, is indicative of a cultural pattern of denying migrant women their human rights and autonomy over their bodies. In the United States, immigration and abortion are two of the most divisive issues, made all the more contentious with the 2016 election of President Donald Trump (R-NY/FL).<sup>6</sup>

Trump’s election popularized xenophobic rhetoric and policies and exacerbated anti-migrant discrimination. Not only did Trump run on a campaign promise to “build a wall” between Mexico and America, he further targeted migrant

rights by supporting a Zero Tolerance policy that promised to punish all adult migrants crossing the border and to block asylum seekers or those with minor children.<sup>7</sup> He also called for repealing birthright citizenship and the Deferred Action for Childhood Arrivals (DACA), removing protections of Dreamers, increasing the Immigrant and Customs Enforcement Agency's (ICE) power, and reinstating the Global Gag Rule. In addition, Trump characterized migrants as “rapists,” “criminals,” “animals,” and “public charges.”<sup>8</sup> In an Executive Order from January 2017, Trump described undocumented migrants as a “significant threat to national security and public safety.” He also referred to injunctions that keep migrants on U.S. soil as causing “immeasurable harm to the American people.”<sup>9</sup>

Not only did the Trump administration stigmatize migrants, but these characterizations justified scrutinizing and demonizing their behaviors, especially ones that the administration deemed deviant. The documentary film, *Immigration Nation* (2020), details how migrants were arrested, deported, and separated from their families for violations as small as a traffic ticket or association with an undocumented person.<sup>10</sup> Such evidence reveals how the Trump administration targeted migrants legally (e.g., denying access even on the grounds of political asylum) and politically (e.g., building the wall, restricting health care access). Attacks on the bodily autonomy of migrant women were shown through Jane Doe's story; she was punished for her migration status, but also because she asked for an abortion, a right the Trump administration sought to block.

A cornerstone of Trump's campaign and presidency was the erosion of women's reproductive rights, especially their constitutional right to choose affirmed

in *Roe v. Wade* (1973). In 2016, Trump ran on a commitment to “appoint judges that will be pro-life.”<sup>11</sup> Notably, his nominations of Neil Gorsuch, Brett Kavanaugh, and Amy Coney Barrett (all of whom were confirmed) to the Supreme Court greatly threaten *Roe v. Wade*. In the wake of Justice Ruth Bader Ginsburg’s death, which barely preceded the 2020 presidential election, Trump said his nomination of Barrett, a notoriously anti-woman conservative judge, would make repealing *Roe* “possible” with her confirmation.<sup>12</sup> While in office, he declared himself a “pro-life president” and said his administration supported “strong pro-life convictions” and “bold pro-life leadership.”<sup>13</sup> Trump supported numerous abortion bans, reinstated (and expanded) the Global Gag Rule (i.e., Mexico City Policy) to prohibit the United States from providing reproductive healthcare to other countries, and attended the March for Life protest—the first president to do so while in office.<sup>14</sup> At the March for Life protest in 2020, he pledged “to defend the right of every child, born and unborn, to fulfill their God-given potential.”<sup>15</sup> Trump’s policies and public statements helped put women’s abortion rights in jeopardy, and especially targeted vulnerable populations (like migrant women) who already had a more difficult time accessing healthcare. In this study, I focus on the Trump administration, but recognize that it was a powerful extension of such xenophobic, sexist, and racist behavior on behalf of federal and state governments in the United States more broadly. In fact, many of his policies were reinstatements of past policies from other conservative leaders, who he tried to emulate in order to make himself more popular among white nationalists. In studying the anti-abortion and anti-migrant rhetorics of the Trump era (2017-2021), I explore the ways in which conservatives relied on rhetorics of pathology to justify their

efforts to restrict migrant women's reproductive rights and perpetuate their white supremacist commitments on the southern border of the United States.

### **Why did Trump Target Migrant Women?**

All migrants were born into webs of surveillance and scrutiny,<sup>16</sup> but migrant women experienced greater and more frequent violence under Trump Terror. Migrant women, especially ones from Central America, were demonized in the United States as “hyper-breeders,” used as test subjects for birth control, involuntarily sterilized, and had many of their reproductive decisions made for them because of their race, nationality, and migration status. Because of this, controlling migrant women's reproduction became (and continues to be) a “crucial tool of colonization and social repression of entire communities.”<sup>17</sup> Eric Stanley and Nat Smith explain, “Among the most volatile point of contact between state violence and one's body is the domain of gender.”<sup>18</sup> Trump tapped into white supremacist and patriarchal sentiment to justify using migrant women to enact his political agenda and appease his supporters.

The Trump administration used the crisis at the border to reinforce its anti-woman agenda by using migrant women refugees held at the U.S.-Mexico border as pawns. They sought reproductive control over migrant women to garner support for their anti-abortion and anti-migrant policy goals. Restricting abortion rights of women and girls from Mexico, El Salvador, Guatemala, and other parts of Central America made for a contentious battle. This dispute intersected conflicts over reproductive rights, migrant rights, healthcare injustices, and U.S. border policy with Mexico. Brown women, intentionally denied proper medical care and resources, were trapped in a political quagmire with a ticking clock. The Trump administration often

shamefully and purposefully let the clock run out so women would be stuck in even more vulnerable positions at the mercy of his policies.

Heightened regulation allowed the state to police a woman's choices based on her income, race, nationality, marital status, and "promiscuity."<sup>19</sup> Restrictions could be implemented or lifted, but above all else, regulations showed that birth control and abortion *should be* regulated, and that women's bodily autonomy was a "legitimate domain of public intervention and control."<sup>20</sup> Controlling all exertions of bodily autonomy showed that the state was most concerned with regulating women's bodies and pleasing their political base, instead of properly caring for the children born under these coercive conditions. Because of these coercive tactics, Eithne Luibhéid argues that bodily autonomy, migration, and state policies are deeply intertwined. According to Luibhéid, childbearing is the "pivotal site of struggle between migrants and the state" with abortion "widen[ing] the gap" between American citizens and undocumented migrant women.<sup>21</sup> Migrants were disproportionately targeted under the Trump administration,<sup>22</sup> as he capitalized on racist, sexist, and nativist rhetoric deeply embedded in American cultural and historical memory to appeal to his conservative, white supremacist, and misogynistic base.

As such, the bodies of women refugees and migrants have long been the target of interrogation and violence by the U.S. government. Such governmental practices associated with U.S. healthcare and foreign policy often treated the "pregnant migrant" as "the most menacing aspect of this illegal illness" called migration.<sup>23</sup> Pernicious narratives about migrant women were often used to oppress and coerce pregnant women because their presence and pregnancy was treated as a "silent

invasion” that endangered white America. Trump’s administration punished migrant women for crossing the border to “steal the American dream” by giving birth. Administration officials argued that pregnant women migrated to America to give birth and create pathways to citizenship for entire families. He exploited the stereotype of the “anchor baby” and vilified birthright citizenship to justify his anti-migrant policies that separated countless families and deported a litany of individuals.<sup>24</sup> Pregnant women were pathologized as criminal threats, who were plotting an invasive takeover of white America through their wombs. Trump capitalized on white anxieties that they would be replaced and outnumbered by migrants and people of color to garner support for his border wall and mass detention and deportation plans.<sup>25</sup> In what follows, I first provide a history of abortion in the United States, with an emphasis on migrant women’s reproductive oppression. Then, I outline the details of this study. I conclude with a chapter breakdown and a summary of the project’s scope.

### **A Brief History of Abortion in the United States**

“No matter what men think, abortion is a fact of life. Women have always had them; they always have and they always will. Are they going to have good ones or bad ones?” - Shirley Chisholm<sup>26</sup>

Many feminists consider abortion rights to be the core right necessary for women’s full autonomy.<sup>27</sup> The right to an abortion “is viewed as essential to ensuring that a woman has both the right to choose what happens to her own body, as well as to determine when and if she wants to bear children.”<sup>28</sup> This argument, commonly made by abortion and reproductive justice advocates, was affirmed by the Supreme Court in cases such as *Roe v. Wade* (1973) and *Akron v. Akron Center for*

*Reproductive Health* (1983). In *Roe*, the Supreme Court ruled in favor of the “right to privacy, including a woman’s qualified right to terminate her pregnancy.”<sup>29</sup>

Reproductive autonomy serves as a basic principle because if women cannot determine when they have children, if they have children, and how many children they have, there is little in their lives that they can control. Women’s control over their bodies is *the* entry point for women’s political engagement.<sup>30</sup> Because of this, Laura Briggs argues that there is “no outside to reproductive politics” in the United States.<sup>31</sup> While reproductive control is essential to women’s humanity, abortion regulations limit women’s autonomy and communicate that their bodies are not their own; they are objects to be monitored and regulated according to state control, patriarchy, and white supremacy.<sup>32</sup> This lack of control is heightened by a woman’s race, class, migration status, language, ability, and geographic location. Abortion can liberate women or be used as a tool to ensure their oppression.<sup>33</sup>

Abortion is a fact of life, but abortion rhetoric reflects a discourse of inequality and inequity. Throughout U.S. history, it is clear that women and people with uteruses have always had a need for safe abortion care. This timeless need for reproductive autonomy demonstrates that abortion is a fact of life that cannot be eradicated. Restricting abortion will only make it unsafe or inaccessible. Abortion is a common experience, but “abortion exceptionalism” infects legal, historical, and political discourses on abortion. Caroline Mala Corbin defines “abortion exceptionalism” as a phenomenon where abortion is treated and regulated differently than other medical procedures and other political rights. For instance, early abortions are safer than a colonoscopy, but abortion is regulated more severely. Abortion

advocates typically argue that abortion is subjected to harsher, more unfair treatment than something like a colonoscopy through abortion exceptionalism. However, anti-choice groups have recently co-opted this progressive argument to undermine it. They argue that abortion gets preferential treatment in the law by liberal judges and elitists, an argument I explore in Chapter One. Rhetorical debates over who gets to argue that the “rules are different for abortion,” shows how much of the abortion debate is about which group gets to lay claim to certain terms and arguments. Through abortion exceptionalism, we see one way that abortion is framed more as a political issue, than a personal or medical one. A woman’s abortion decision operates through sites of regulation, such as legal and political rhetoric that often excludes or decenters women.<sup>34</sup>

Accordingly, abortion exceptionalism supports conservative arguments that abortion can (and should) be eradicated. Calls to criminalize and regulate abortion out of existence treat women as objects to be regulated and as sites of emergency in need of intervention. At the same time, abortion rights advocates stress how abortion regulations disproportionately impact certain types of women (non-cisgender, low-income, migrant, disabled, and women of color). Both conservatives and liberals appeal to their voter base to gain support for their position on abortion, often targeting people that already agree with them. Because of this, Erwin Chemerinsky argues that abortion rhetoric is at an impasse; pro-choice and anti-choice groups repeat the same arguments and are unlikely to convince each other to abandon their position.<sup>35</sup> Yet, examining the history of abortion shows how the rhetorical strategies of pro-choice and anti-choice groups model larger cultural narratives. For instance, advances in

sonogram technology gave rise to conservative arguments that a fetus is life. Abortion regulations also coincide with advances in women's rights. As women advocate for social, political, legal, and economic rights, their rights and their bodies are subjected to increased regulation and political backlash. Like Nathan Stormer argues, abortion is a medium of power used to put women back in their proper place according to patriarchy in times where women are gaining political or social rights.<sup>36</sup>

This account of the history of abortion in America illuminates the prominent arguments that shape perceptions of abortion and determine access to care in the past and present. It is important to note that the Supreme Court and *Roe v. Wade* (1973) did not create abortion or provoke women to choose abortion for the first time. Rather, legal cases have been a response to social changes and shifts in women's positions in society.<sup>37</sup> Surges in abortion legislation (both restricting and liberating) usually occur alongside changes in the social positionings of women.

#### *Earliest Archival Records—The Nineteenth Century*

We do not know exactly when abortion practices began in America, but some of our earliest records include stories of unwanted pregnancies and elective abortions.<sup>38</sup> Zoila Acevedo explains that abortion and contraception techniques were an ancient practice, known to almost all tribal societies.<sup>39</sup> Ethnologist George Devereux's study on 350 primitive, ancient, and pre-industrial societies found that there is "every indication that abortion is an absolutely universal phenomenon."<sup>40</sup> Because of this, it is unlikely that the first recorded abortion in America was actually the first one performed. But records from 1629 Virginia suggest that Dorcas Howard had the first recorded abortion in the United States. She was an unmarried servant

arrested after giving birth (in secret) to a son who was soon found dead.<sup>41</sup> Although it is unclear whether Howard intended to abort, she was judged on the outcome of her pregnancy. In addition, American Indian women in New England relied on groups of older women to teach young women about their bodies, including how to use a variety of herbs and physical forces to induce an abortion.<sup>42</sup> Writings from 1714 explain that American Indian women sought abortions because they struggled to provide for their family, feared losing social status, wanted to avoid parental responsibilities, and wanted to protect their family's reputation.<sup>43</sup> This assumption echoes the feminist argument that as long as people can get pregnant, abortion will always be a necessity. Since abortion was (and is) a "social necessity"<sup>44</sup> that responds to women's need for bodily autonomy, it is "an issue that cannot be concluded."<sup>45</sup>

Even when abortion is illegal or not openly discussed, women have always had a need for abortions. Abortion and birth control practices are universal, making "it is impossible even to construct an imaginary social system in which no woman would ever feel at least impelled to abort."<sup>46</sup> Women will always find ways to control their pregnancies, but they may be forced to use unsafe or less safe methods if abortion is restricted, expensive, or difficult to access. In fact, Leslie Reagan argues that, "There would be no history of illegal abortion to tell without the continuing demand for abortion from women, regardless of law."<sup>47</sup> Obtaining an abortion by "any means necessary" relied on strong information networks among women where they could share techniques to induce miscarriages.<sup>48</sup> Herbs, leeches, chemicals, magic procedures, and sometimes enacting violence on the body (i.e., belly-flopping, climbing smooth trees, beating the abdomen with rocks) are all ways that women

tried to self-abort before modernized medicine and the first abortion legislation.<sup>49</sup>

This sentiment reflects Chisholm's quote that abortion is a fact of life and a right that women will always need safe access to as long as they can get pregnant.

Abortion has always been practiced, but women have been punished for abortions, even in cases where it is unclear if an abortion or a miscarriage occurred.<sup>50</sup>

For instance, there were 51 documented infanticide convictions in Massachusetts between 1670-1807. While infanticide and abortion are incredibly different, colonial America often could not discern at what stage a fetus was terminated or why a child died after birth. There were also many variations in abortifacient recipes.

Abortifacients are drugs that induce abortion, and the different combinations of drugs that women used made it difficult to prove if a woman was trying to abort.

Without tangible evidence of an abortion attempt, *suspicion* of abortion was ample justification to prosecute or even execute women. For example, in 1648 Massachusetts, a young servant, Mary Martin, became pregnant after having sex with a married man. Martin was executed for infanticide when the child's body was found with a skull fracture.<sup>51</sup> Similarly, the first recorded conviction for intention to abort was in 1652 Maryland. Captain William Mitchell, a member of Maryland governor's council, impregnated his servant, Susan Warren, and forced her to drink an abortifacient. The potion caused her to "break into boils and blains, her whole body being scurfy, and the hair of her head almost fallen off."<sup>52</sup> She survived, but the fetus was stillborn, and Mitchell was indicted for "murderous intention."<sup>53</sup> Additionally, in 1691, one colony's law states that a woman should be executed if her child was conceived out of wedlock and died. Even if the child was born alive, the woman

would be killed if the child did not survive.<sup>54</sup> These instances demonstrate early historical instances where fetal life outweighed women's lives, an argument that anti-choice groups continue to mobilize in the twenty-first century.

Women could be arrested or killed for having an abortion, but these risks did not outweigh their desire to not be pregnant. Whatever the recipe, abortifacients were not very effective in inducing an abortion and were typically hazardous to the women who ingested them.<sup>55</sup> "Red cedar," "black root," "Sabina," or "Savin" as it was sometimes called, were the most effective methods available at the time, but these interventions could cause death.<sup>56</sup> Throughout United States history, women risked (and continue to risk) their lives to exercise bodily autonomy. The possibility of death is not a significant deterrent for women seeking abortions. Instead, these instances exemplify the undying need for abortions to be safe and readily accessible.

Many doctors, healers, and midwives peddled abortifacients as a component of their business as the drugs became the most common way to induce a miscarriage in the mid-eighteenth century.<sup>57</sup> Documents from 1742 Connecticut explain how women were "taking the trade," a euphemism for ingesting abortifacients. Abortion practices were an "open secret," which was often described through coded language or only discussed in private spaces. Some states like Illinois prohibited the sale of abortifacients and referred to restrictions as "poison control" measures because some women died after ingestion. Despite this, home or herbal remedies regulated fertility and pregnancy and created an "abortion business" that was profitable for doctors and healers.<sup>58</sup> Some women, like Ann Lohman who called herself Madame Restell, gained fame for helping women with abortions. Beginning in the 1830s, Restell sold

“Female Monthly Pills” to mostly privileged women—white, married, native-born, Protestant, and middle to upper class.<sup>59</sup> Privileged women could access abortion relatively easily, but women of color were forced to reproduce when it benefitted enslavers, and forced to abort when pregnancy could damage the reputation of a powerful, white person.<sup>60</sup>

Abortion discourse at this time demonstrates how women of color were expected to reproduce when it was beneficial to powerful whites. For instance, potions were used on bondservants and “desperate women” leading into the seventeenth century.<sup>61</sup> In the 1690s, when enslaved people were brought to the United States, pro-natalist sentiment was encouraged because more Black births meant cheaper labor and more workers for white enslavers. Many enslaved women were raped to produce workers for the enslaver. This perspective obliged enslaved women to reproduce, but many of them retaliated against the rape of white enslavers by inducing abortions. Black women had no “freedom” to choose abortion, but they used “folk methods” such as roots and concoctions “from the woods” to force a miscarriage.<sup>62</sup> Trends of using herbal remedies and folk techniques continued into the nineteenth century as people of color were continually denied humanity and agency. In 1849, Dr. E.M. Pendleton from Georgia explained that enslaved women had higher rates of abortion and miscarriages than white women. But Black women were heavily vilified for not carrying pregnancies to term; enslavers frequently complained that “the Blacks are possessed of a secret by which they destroy the fetus at an early stage of gestation.” Dr. John T. Morgan from Tennessee also cited enslaved women’s use of herbal remedies and “violent exercises,” and inserting concoctions of rags, roots,

cotton, and cedar gum into their vaginas.<sup>63</sup> This racist reasoning was used to justify experimentation on enslaved people, which was the basis for the founding of modern gynecology in America.<sup>64</sup>

### *Early Abortion Regulations*

Abortion has been regulated according to different standards throughout history, highlighting how regulations are a rhetorical response to the political and social pressures of the time. In the late eighteenth and early nineteenth century, for example, abortion was primarily regulated according to quickening, or discernable fetal movement. Quickening was “a moment recognized by women and by law as a defining moment in human development.” After quickening, women had a moral obligation to carry the pregnancy to term because movement discerned the fetus as its own entity. But before quickening, women had the “bodily integrity” to induce miscarriage, the contemporary definition of an abortion.<sup>65</sup> Dr. Joseph Taber Johnson reported in 1895 that “prior to quickening, it is no more harm to cause the evacuation of the contents of their wombs than it is that of their bladders or their bowels.”<sup>66</sup>

Even in places like Illinois where abortion was more restricted, these laws did not eliminate the concept of “quickening” as a legal (and moral) standard.<sup>67</sup> The fetus was not recognized by common law until it had quickened, so early abortions (what we now consider first and early second-trimester abortions) were legal until around month four or five of pregnancy.<sup>68</sup> However, Reagan explains that the quickening standard furthered a false assumption that quickening was a measurable, finite point in a woman’s pregnancy. Some women never feel significant fetal movement. Reagan argues that fetal development is better understood as a process, rather than a series of

discrete and definitive measurements.<sup>69</sup> Yet, the law did not account for variations and instead only used abortion as a term to refer to “miscarriages of later pregnancies, after quickening.”<sup>70</sup> Today, abortion is commonly understood as the intentional termination of pregnancy at any stage, but this has not always been the definition. Reagan notes that no prominent discourses, not even the Catholic Church, believed an embryo or fetus constituted a human life at this time; few if any believed there was life before quickening.<sup>71</sup>

The public mostly accepted quickening as the abortion standard, but states did have the power to legislate abortion since it was not explicitly named or mentioned in the Constitution. The first anti-abortion legislation passed in Connecticut in 1821. Connecticut Statute, titled 22, 14, adopted language from Lord Ellenborough’s Act in England that referred to a woman “quick with child.” The foundational law subjected women to life imprisonment if they ingested an abortifacient after quickening.<sup>72</sup> Following this precedent, many states continued to criminalize abortion. Beginning in the 1840s, at least 13 states passed laws prohibiting abortion at any stage. Some states defined abortion as manslaughter and distributed the same legal punishments for women’s deaths and fetal termination.<sup>73</sup> However, it was difficult to monitor and enforce anti-abortion regulations. And people were still willing to try creative and sometimes dangerous means to induce an abortion. For instance, in the 1870s, some believed that pulling out a woman’s tooth would create enough pain to cause a miscarriage.<sup>74</sup> These restrictions merely forced women to continue to ingest potentially deadly abortifacients or inflict bodily pain to end their pregnancies.

By the early 1880s, most states had enacted anti-abortion laws. James C.

Mohr explains three cultural shifts in abortion discourse beginning in the early 1840s. First, abortion became more public; it was clear that many Americans practiced abortion and it was described as an “obvious social reality.”<sup>75</sup> Second, given the publicity, abortion rates surged, making it a “widespread social phenomenon” and not just a medical procedure. And third, it was more common for white, married, Protestant, and native-born women to have abortions. This contradicted the cultural idea that the only women who wanted abortions were those who had illegitimate children or were involved with marital infidelity. Therefore, these shifts helped pave the way for abortion to become one of the first specialties in American medical history.<sup>76</sup> But numerous anti-abortion rhetorics vilified both the women and practitioners involved with abortion care. Carroll Smith-Rosenberg argues that Horatio Storer, Harvard Medical School, the American Medical Association (AMA), Protestant clergy, and the Roman Catholic Church “effectively created the deadly underground of illegal abortions that thrived between the 1870s and the 1970s.”<sup>77</sup>

Although abortion should only be about the women and people who have them, shifts in modern medicine made abortion a practice that men performed and regulated—trends that persist today. In the 1700-1800s, mostly women and midwives performed abortions in women’s homes or in midwives’ offices. There was a diversity of providers, which allowed women to have more privacy and increased women’s access to care. Until men started doing gynecological examinations in the 1800s, it was improper for men to examine women. But male dominance of the medical profession empowered men to make decisions regarding women’s reproduction and opened the door for abortion to be “an aspect of the female world

which men legislate against.”<sup>78</sup> Indeed, male obstetricians knew little about women’s bodies and were ignorant on how to treat them, a fact that remains largely true today. Due to a lack of knowledge and perhaps unwillingness to learn, male obstetricians often resorted to force when women faced complications during pregnancy.<sup>79</sup> Smith-Rosenberg explains that male physicians would use force, not surgical skills, in difficult labors or would force women to have Caesareans, which brought pain or often death to women.<sup>80</sup>

Men’s inappropriate control over women’s health was exasperated with the formation of the AMA in 1857. The organization issued a “crusade to make abortion at every stage of pregnancy illegal”<sup>81</sup> and favored the “general suppression of abortion” in part because physicians were losing social power.<sup>82</sup> Two years after the AMA’s formation, infamous anti-abortion advocate Storer demonized abortion and blamed the public for being ignorant enough to allow quickening to be the standard of care. He also spoke on behalf of the AMA and argued that they were “unanimous in [their] condemnation” of abortion as a “crime.”<sup>83</sup> Smith-Rosenberg explains that an anti-abortion backlash occurred because men were threatened by women acquiring medical training and women’s tendency to seek care from midwives, rather than male physicians.<sup>84</sup> In retaliation, physicians helped spearhead anti-abortion campaigns and criminalization from 1840 to 1880.<sup>85</sup> Frustrated with physicians’ lack of power, the AMA launched a campaign centered on political advocacy and public condemnation to make abortion a public scandal. Reagan explains that physicians “won” criminalization by awarding themselves the right to decide the outcomes of women’s pregnancies and to “induce abortions when they deemed necessary.” Claiming

authority in life and death, physicians appropriated the authority of religious leaders while placing themselves above the general public.<sup>86</sup>

*Race and Abortion in the Nineteenth Century*

The large scale anti-abortion campaign led by Storer targeted married women, under the assumption that nineteenth-century white women were supposed to be morally superior.<sup>87</sup> Therefore, when Storer compared abortion to infanticide and as immoral as prostitution, his arguments carried more weight among the public.<sup>88</sup> It is also important to remember that nineteenth-century abortion discourse was shaped by the separate spheres ideology that regulated women to the private sphere (the home) and men to the public sphere (law, courts, work, bars, etc.). But the public-private divide typically excluded women of color and working-class women. In fact, Barbara Welter's 1966 article on the "Cult of True Womanhood" explains that white women were expected to be pious, (sexually) pure, domestic, and submissive.<sup>89</sup> At the same time, women of color and Black women in particular were described as "mammy's" (unselfish caretakers), "jezebels" (hypersexual), and "mules" (workers).<sup>90</sup> Migrant women were framed as "hyperbreeders" who reproduced like "rabbits" and could not be trusted with bodily decisions because they lacked control.<sup>91</sup> Despite ideologies that separated women from men, and women from other women, abortion politics show how private activities and conversations shape public policy.<sup>92</sup>

In addition, Storer employed racist and eugenic arguments about who *should* procreate to justify an anti-abortion crusade against white women.<sup>93</sup> Declining Yankee birthrates coupled with an increase in migrants garnered fears that whites would be out-populated by people of color. These fears paved the way for

contemporary replacement theory, a conspiracy theory which states that white people are being “replaced” by people of color and significantly losing their power.<sup>94</sup>

Between 1800 and 1900, white fertility rates in the United States decreased by roughly 50 percent and the number of children born per married woman fell from an average of 7.04 children to 3.56 children.<sup>95</sup> Storer’s belief that white women should not get abortions grew out of hostility towards migrants, people of color, Catholics, and similar groups. He believed white women’s abortions threatened the political power of native-born whites, encouraging rhetoric that forced maternity and pro-natalism on white women. They were expected to sacrifice for the good of the nation and for their future children.<sup>96</sup> This position reinforced an anti-feminist message about women’s purpose while also justifying policies to keep women out of the public eye and out of institutions like medical school where they could obtain more power.<sup>97</sup>

Storer’s anti-abortion ideology gained traction because it occurred alongside the eugenics movement of the late nineteenth and early twentieth centuries. Cultural arguments demonized Anglo-Saxon people for choosing abortion, stating that they enact “race suicide” when they did not carry a fetus to term. The capacity to act “morally” was something that distinguished white people from “lower classes;” it was a symbol of “Yankee pride” for white women to not have abortions.<sup>98</sup> While “race suicide” arguments were initially employed to shame white people into having babies, the more contemporary anti-choice movement uses this frame to vilify women of color for having abortions.<sup>99</sup> Today, it is common for anti-choice groups to argue that Black women enact “race suicide” by framing “abortion as Black genocide.” They

co-opt progressive rhetoric about social justice to argue that they “save” Black and Brown babies through anti-abortion policies. In this view, *they* are the social justice warriors and abolitionists. In their crusade to save the fetus, they are supposedly uplifting communities of color. They fight for “equality” by saving the fetus, the “new oppressed minority.”<sup>100</sup> These anti-abortion arguments mimic progressive rhetoric to shame Black and Brown women for exercising reproductive autonomy and frame themselves as moral saviors. Similarly, migrant women were denied access to healthcare and were left bleeding in detention centers, while Trump and his anti-choice appointees touted the sanctity of human life.<sup>101</sup> Not only do these arguments use race as a weapon against Black and migrant women’s reproductive freedom, they also problematically frame racial inequality as a product of nature, rather than of power.<sup>102</sup> Arguments about who is *allowed* to have an abortion have always depended on race, class, and who has power in society.

#### *Race and Abortion in the Twentieth Century*

During the twentieth century, white women’s abortions were discussed more openly, but abortions for women of color were treated with suspicion and surveillance. Pregnancy suspicion was heightened for migrant women, who the state framed as public charges, burdens on the economy, and carriers of diseases. Their reproduction in the United States was largely determined by eugenic practices. Migrant women were discouraged from reproducing out of fears that they could “pass on deviant traits” because of their intellectual and moral inferiority, producing children who would become burdens on state resources.<sup>103</sup> Just as Black and Brown migrants were treated as unfit for citizenship (self-governance), they were deemed

unfit to reproduce.<sup>104</sup> “Good” migrants were ones who could self-govern and parent responsibly. Those who could not do either (according to standards of white America) were seen as too uncivilized to govern the state or their own personal lives. White parents were expected to produce the next generations of citizens, not migrants. Therefore, characterizations of migrants as “feeble-minded” fed into cultural myths that they reproduced in large quantities and could not be trusted with the responsibility of having fewer children. They were demonized as disease-ridden, posing a threat to public health. In order to “weaken the impact of the ‘greater invasion,’” migrant girls needed to be “trained to be dependable and obedient” and “limit their reproduction.”<sup>105</sup>

Migrant women were described as carriers of diseases, using pathological rhetorics that characterized these women as subhuman and subject to deportation or detainment at the U.S. border. The 1917 Typhus Quarantine hardened the boundary between the United States and Mexico, under the assumption that Mexican migrants were bringing typhus fever to America. This fueled nativist efforts to ban all migration. Alexandra Stern explains that the quarantine “contributed to a culture of suspicion, segregation, and violence” that disproportionately targeted women. While all migrants were subjected to kerosene showers, disinfectant procedures, and medical exams, women often were assaulted during the exams. Many also feared American soldiers, who were supposedly photographing women in the showers.<sup>106</sup> After typhus panic fizzled, the U.S. found new diseases to blame migrants for such as smallpox and the plague. These depictions mischaracterized Americans as victims of migrant’s health and hygiene, ignoring the actual abuse and maltreatment migrants faced.

In 1924, the Border Patrol was created to help enforce the Johnson-Reed Immigration Act and regulate Mexican migration, further marking Mexicans as an “Other.” The Johnson-Reed Immigration Act primarily attacked migrants from Asia and Europe, severely limiting their ability to migrate to the United States, which created a demand for more workers and laborers. Migrants from Central America largely filled that gap and migration rates soared; the population of migrants was about 500,000 in 1910 and around 1.5 million in 1930.<sup>107</sup> The increased number of migrants created a panic among nativists who stigmatized migrants as diseased. At the U.S.-Mexico border, migrants were subjected to medical inspections and physical examinations, under the eugenic assumption that they were “polluting ‘germ plasm’” and that America needed to be protected from the health threats that migrants posed. They were branded “admitted” if they passed the border medical exam. Border Patrol policed the threat of migrants, a move that marked Mexico as separate and full of racialized outsiders. The increased presence of people from Mexico in the United States became known as the “Mexican problem,” which was seen as a “danger to every facet of the state’s health.”<sup>108</sup> These rhetorics allowed xenophobia to be framed as disease prevention and a public health concern, an argument that recirculated during the Covid-19 pandemic as Trump and other white supremacists tried to blame Chinese people for coronavirus.

A regime of eugenic gatekeeping at the U.S.- Mexico border used surveillance, militarization, and medicalization to uphold the “purity of the American family and nation” by limiting their exposure to “filthy, lousy, irresponsible breeding.”<sup>109</sup> White America blamed migrants for social problems through rhetorical

pathology, but the “responsibility of creating fit families fell squarely on women.” This is partially because women in heterosexual marriages were expected to be child bearers, but also because of deeply entrenched gender ideology that it was women’s responsibility to also make marriages work. Framed as the weaker gender, it was “much easier to change women than men.”<sup>110</sup> Under the same sexist ideology, eugenicists believed migrant women were inferior, paradoxically, because they were excellent breeders. Migrant women’s reproduction, coupled with white women not having as many children, fueled many eugenicists’ arguments that women should be blamed for threatening the hegemony of white America.<sup>111</sup> Because of the increased presence of migrants in the United States, much anti-migrant, anti-woman, and nativist sentiment was framed as “population control.” Eugenicists argued that population control was a “vehicle for modernization, democracy, and world peace,” but for women of color, population control worked to curtail their reproduction through forced sterilization and treated their bodies as test subjects for birth control.<sup>112</sup>

While many white women were advocating *for* abortion, contraception, and the right to be electively sterilized,<sup>113</sup> many migrant women and other women of color were fighting *against* involuntary sterilization and procedures done on their bodies without their consent. Stereotypes of migrants as “hyperbreeders” and “welfare mothers in waiting” led to mass involuntary sterilization.<sup>114</sup> *Buck v. Bell* (1927) upheld involuntary sterilization laws against the “feebleminded” and the “potential parent of socially inadequate offspring” in 32 states.<sup>115</sup> The influence of *Buck v. Bell* is important for migrant women because after World War II, a culture of

poverty supported racist ideologies that described Mexican Americans as mentally deficient and criminally prone. In 1968, Mexicans made up 40 percent of programs for the “mentally handicapped.”<sup>116</sup> In 1974, the U.S. Public Health Service declared migrants a serious “health problem,” one that many proponents of immigration control thought could be solved by increased birth control in Mexico.<sup>117</sup> These assumptions paved the way for *Madrigal v. Quilligan* (1978), a case where a group of migrant women sued a Los Angeles County Hospital after being forcefully sterilized. While ten women came forward initially, over 140 women were reported to have been sterilized in medically unnecessary surgeries at a hospital that serves a Latinx district primarily. Two conditions contributed to the widespread abuse of sterilization: increased use of birth control pills and lifting the requirement that women must see two doctors (and a psychiatrist) before having a hysterectomy or a salpingectomy (removal of the fallopian tubes).<sup>118</sup> For women of color at this time, birth control largely meant reproductive coercion, not increased choices.

Because of the disparate realities women faced depending on their race, Beverly Padilla in *Chicana Feminist Thought* (1997) said that many Chicanas and other Brown women felt that abortion rights were a “white women’s-liberation hang-up.” She explains that Chicana feminism was needed for them to come together to fight various forms of reproductive oppression. Chicana women were sterilized, injured and killed from illegal abortions, forced to have children they did not want, and ostracized by their families for either not wanting children or for having children out of wedlock. Padilla explains that controlling one’s body is not just a white woman’s concern, although the state clearly cared about their interests over the

interests of migrant women. Part of Chicana feminism was recognizing that, “Control of one’s own body and mind is not up to each individual woman at this stage of reality—it is a collective problem; we live socially, it is our problem.”<sup>119</sup>

### **Climate Leading to *Roe v. Wade*, 1950s-1973**

Just as abortion regulations in the nineteenth century coincided with increases in women’s political power, regulations in the twentieth century represented a political backlash to conversations about women’s sexual freedom.<sup>120</sup> Before *Roe*, many young women deferred marriage and motherhood for work and school. In the 1950s, more women worked outside the home and had fewer children, but this choice was still considered deviant.<sup>121</sup> In general, the federal government was not visibly involved in family planning, but the birth control movement had more of public presence in the mid-1960s. Although abortion and birth control are different, the ability to access birth control and contraception influenced the need for abortions. Birth control pioneer Margaret Sanger argued that birth control was an “effort of the feminine spirit to free itself from bondage.”<sup>122</sup> The over-the-counter birth control pill was not available until 1950. Contraceptives were allowed for married couples after the 1965 SCOTUS case *Griswold v. Connecticut* and were granted to single people in 1972 with *Eisenstadt v. Baird*.<sup>123</sup> Despite social gains with contraceptives, laws still criminalized the dissemination of information on abortion. Medical knowledge was the right of doctors and the public was not entitled to it; as Kaplan argues, “blind obedience to medical authority” was expected.<sup>124</sup> Therefore, it was politically risky for women and abortion providers pre-*Roe*, but women still found ways to help each other access abortions—especially the women of Jane.

“Jane”—the famous underground abortion service—serves as a testament to how women empower themselves and find community in an anti-abortion, anti-woman system. Formally known as the Abortion Counseling Service of Women’s Liberation, Jane was created in Chicago in 1969. This organization of mostly women came together to connect women with safe abortion providers who would not physically butcher, sexually assault, or financially exploit them.<sup>125</sup> The dangerous reality of illegal abortion was worse for Black women and migrant women who were disproportionately the victims of unsafe abortions until 1973.<sup>126</sup> Aware of this reality, Jane sought to help women access safe abortion care regardless of race or income, even teaching themselves how to perform abortions. Former member Laura Kaplan remembers that most women did not oppose teaching themselves how to perform abortions because throughout history, mostly “everyone but doctors” performed abortions—midwives, healers, older women.

The group did not keep many records out of fear they would be arrested, but Kaplan suggests in Jane’s memoir that they performed over 11,000 abortions in the four years leading up to *Roe*. During their time in operation, many members of the clergy, police, and the medical profession referred women to Jane to get safe abortions with follow-up medical care, transportation, and childcare throughout the entire process.<sup>127</sup> Strengthened by the fact that women were delaying marriage and childbirth, abortion constituted a pervasive social force that “helped feminist consciousness flourish.”<sup>128</sup> Many women were willing to break the law to secure an abortion and also rejected the idea that their lives should be governed by their reproductive capabilities.<sup>129</sup> Therefore, birth control and abortion issues framed

reproductive autonomy as “fundamentally female” and the “core right through which all other rights followed.”<sup>130</sup>

While I use the word “abortion” because I think there is political value in saying a word that has been stigmatized, most people in the nineteenth- and early twentieth-century did not readily use “abortion” in discourse. Abortion was described as a foreign and formal medical word used by medical professionals— “not an ordinary word used by ordinary people.”<sup>131</sup> Rather, people would say that women needed to be “fixed up,” “be put straight,” and brought “around.”<sup>132</sup> To address the ambiguity and stigma embedded in abortion language, activists wrote books on women’s bodies and organized speak outs against the restrictions. Speak outs are a common pro-choice rhetorical strategy where women “shout their abortion” to end stigma, create community, and show that abortion is common. This strategy began in 1969 New York City with the Redstockings who told their abortion stories to protest the fact that men were legislating women’s bodies. The legacy of speak outs continues today, primarily with groups such as ShoutYourAbortion and Advocates for Youth, who emphasize women’s narratives and center women’s perspectives in abortion rhetoric.<sup>133</sup> These groups capitalize on the fact that there is rhetorical power in openly discussing abortion, especially in political climates characterized by rampant misogyny and criminalization of women.

### **Pre-Roe Eugenics**

In addition, some eugenicists saw abortion and contraception as solutions to public health problems, calling for the services to be more readily accessible in low-income communities and/or communities of color. Anti-migrant discrimination gave

rise to cultural discourses that described women of Mexican origin as the “most fertile.” Breeding fears and anxieties about Mexican “pregnancy culture” became a federal policy concern.<sup>134</sup> In 1971, the Science and Technology Advisory Council of the California Assembly, headed by Kingsley Davis, gathered to discuss population problems, including the question of how to curtail the increased numbers of migrants in the United States. Among their recommendations was to make contraception more accessible and for abortion clinics to offer more services and cheaper services.<sup>135</sup> Joanna Schoen discussed how even reproductive health policies that were designed to provide equal opportunities for women in the 1970s, were still supported largely because they “promised to lighten the state’s burden from the socially useless.”<sup>136</sup>

At this time, one of the most persuasive arguments for family planning, abortion, and contraception was its potential to reduce health and welfare costs for the state. Stereotypes of migrant women being “illiterate” and “diseased” were accompanied by animal metaphors that further dehumanized and framed them as burdens to the state. Vicki Ruiz explains some of these rhetorics, including how migrant women were said to have brought “countless numbers of American citizens into the world with the reckless prodigality of rabbits.” This created a “breeding spiral that inevitably would lead to the ‘mongrelization of America.’”<sup>137</sup> Nativists and eugenicists used these rhetorics to argue that migrants were burdening the state because of the “economic weight of mentally defective” children. Notions that children should not be born because they were characterized as “a burden to themselves, burden to their family, a burden to the state, and a menace to civilization” were used to target and blame women and girls for their reproductive activities.<sup>138</sup> In

this view, birth control was less about individual choices than it was about preserving a racist, ableist, and classist vision of the American citizenry. Whether it was in the name of reproductive freedom or reproductive coercion, contraception and abortion garnered more public support leading up to *Roe v. Wade*.<sup>139</sup>

### ***Roe v. Wade* (1973)**

On January 22, 1973, the Supreme Court ruled in favor of Jane Roe, a pregnant woman who rejected Texas laws that allowed for abortion only to save a woman's life.<sup>140</sup> *Roe v. Wade* was meant to rectify this injustice, putting women at the forefront of the decision and empowering them to choose abortion electively and not just therapeutically. The rhetorical emphasis on "choice" by pro-choice advocates in the 1960s and 1970s was supposed to give women the freedom to determine their futures and destinies, freedom from forced sterilizations and hysterectomies, and freedom from financial and sexual exploitation by illegal abortionists.<sup>141</sup> *Roe* mostly fulfilled this promise by affirming the "right to privacy, including a woman's qualified right to terminate her pregnancy."<sup>142</sup> But some feminists have critiqued the ruling because it was "written in terms of physician's rights, not women's rights, revalidat[ing] the medical profession's control over women's reproductive health."<sup>143</sup> *Roe* did legalize elective abortions on a federal level, but it created a trimester framework that would be the subject of many abortion debates.

Nevertheless, *Roe* recognized a woman's right to choose as a federal and a constitutional right, making it pivotal for women's equality. Ensuring that women have the ability to control their own body and act as agents over their reproductive health ensures their humanity. *Roe* won an important battle, but did not win the

war.<sup>144</sup> Since *Roe*, anti-choice groups have worked to deplete abortion rights. One of the most common strategies to rollback abortion is to make it “legal but not accessible.” This strategy is much easier for conservatives to implement in state legislatures because it sidesteps the incredible legal battle of repealing *Roe*. The argument that “*Roe v. Wade* mandates that abortion be legal in the fifty states” but “does not require that abortion be accessible,” helped paved the way for staunchly conservative states to severely restrict abortion services.<sup>145</sup> Cristina Page argues that “*Roe* was the beginning of a fundamental societal shift,” but science and reason are often blurred and obstructed by political movements that distort the reality of abortion for ideological and political gains.<sup>146</sup>

### **Prominent Court Cases Since Roe**

Since 1973, an array of restrictions has chipped away at *Roe*’s power and precedent, most notably state restrictions and the Hyde Amendment. The 1976 Hyde Amendment created a further divide in abortion access by removing abortion from comprehensive health care services provided to low-income people through Medicaid.<sup>147</sup> Because of the Hyde Amendment, low-income women and women of color struggle to afford abortion care that can range from about \$500 to \$30,000 depending on gestation.<sup>148</sup> Hyde was therefore a catalyst and a justification for disparate access to abortion. For many women, abortion is already legal in name only, as anti-choice groups continue to rollback abortion rights and push for criminalization. Hyde (and contemporary state restrictions) inhibit abortion access.<sup>149</sup>

Since *Roe*, the courts have become a primary site for discussing and regulating abortion. While there is a litany of abortion cases to discuss, perhaps the

most important Supreme Court case since 1973 is *Planned Parenthood v. Casey* (1992). Although many consider *Roe v. Wade* (1973) settled constitutional law, *Roe* is arguably not the most important SCOTUS decision in determining abortion access.<sup>150</sup> Instead, *Planned Parenthood v. Casey* (1992), which empowered states to restrict abortion as long as it does not constitute an “undue burden” on a woman’s right to choose, has determined abortion access for many women. State power to limit abortion has made it one of the most heavily regulated procedures in America.<sup>151</sup> The undue burden standard was said to protect abortion rights affirmed in *Roe* while also accommodating the state’s interest in potential life. The Court defined that an undue burden exists if “its purpose or effect is to place substantial obstacles in the path of a woman seeking an abortion before the fetus attains viability.” Arguing that abortion is similar to “any medical procedure,” states are allowed to regulate procedures to “further the health and safety of a woman seeking an abortion” as long as it does not present a “substantial obstacle” or “impose unnecessary health restrictions.”<sup>152</sup> The Court would later retract the argument that abortion is similar to other medical procedures and instead advocate that abortion is exceptional and deserves increased regulation. But the undue burden standard, as ambiguous as it is, replaced the trimester framework outlined in *Roe*, which regulated abortion rights based on fetal gestation. Many feminists were worried *Casey* would overturn *Roe*, and since it does (in a very specific way) affirm a woman’s right to abortion, the decision was initially praised by some pro-choice groups.<sup>153</sup> For the most part, however, *Casey* is remembered for severely chipping away at abortion access by creating a vague undue burden standard that allows states to pass restrictions.

Despite *Casey* inflicting significant damage on abortion rights, 1992 also saw the first published book educating women on how to self-induce an abortion. *A Woman's Book of Choices: Abortion, Menstrual Extraction, RU-486* served as a guerilla guide to controlling reproduction. The text discusses the referral services that helped women in college dorms obtain abortions in the 1960s. Rebecca Chalker and Carol Downer detail how to get available and safe abortion care, how to induce menstrual extraction, and how to access the abortion pill that was not yet available in the United States.<sup>154</sup> This book mirrors *Our Bodies, Ourselves* and Robin Marty's *Handbook for Post-Roe America* with both manuscripts working to educate women about their bodies and give instructions for do-it-yourself abortions. Handbooks are important since do-it-yourself abortions surge in the wake of severe anti-choice restrictions.<sup>155</sup> The feminist backlash against *Casey* demonstrates how women will take abortion into their own hands when the judicial system fails them. While it is promising that many women help each other access abortion during restrictive times, the goal is for the practice to be safe and available, so women do not have to form underground networks. In Chapter Three, I discuss how migrant women relied on underground, whisper networks for abortion during Trump's reign of terror, where they relied on sources of community and personal empowerment.

Shortly after *Planned Parenthood v. Casey* (1992), a number of reports were published detailing how state-imposed neglect and abuse of pregnant migrants is part of America's legal landscape. In 1994, California passed Proposition 187, which was intended to "Save Our State" from Mexican immigration" by denying undocumented migrants, specifically of Mexican origin, prenatal care and other social services.<sup>156</sup>

Proposition 187's supporters named "pregnant immigrants as the problem" because they "come to the country illegally to have their babies on U.S. soil in order to achieve citizenship for their children and benefits—namely, access to welfare and public services."<sup>157</sup> Following this proposal, Governor Pete Wilson (R-CA) said that prenatal care for migrant women led to greater taxpayer expenses, and hoped that by denying women these services, migrant women would not want to come to America to give birth.<sup>158</sup> With measures such as these, it is no wonder that in 2005, the United States Department of Health and Human Services' Agency for Healthcare Research and Quality reported that "Hispanic women receive poorer quality care than non-Hispanic white women for 60 percent of measures of health care, and they report poorer access to services on nearly 90 percent of all measures." They are "more likely than other women to die from conditions that originated while they were pregnant."<sup>159</sup> The "pro-life" party's work to get rid of prenatal care further shows that policies that curtail reproductive choices are about controlling women.

### **Abortion Today**

As this historical overview has shown, abortion debates are not a new phenomenon. They represent judicial cases and polarizing public discourse that have promoted significant divides between pro-choice and anti-choice groups. A key contemporary abortion issue is over criminalization; the anti-choice movement is working to criminalize abortion, which would put many women (mostly mothers) in prison. Criminalization rhetoric did not originate with President Donald Trump, but his statement from the 2016 campaign trail that there should be "some type of punishment" for abortion<sup>160</sup> was a fear-mongering tactic that encouraged anti-woman

and anti-abortion sentiment.<sup>161</sup> This dangerous shift towards criminalization instead of care means implementing laws that criminalize women who get abortions along with the doctors and administrators who help with abortion care, and even women who have miscarriages. While it seems contradictory that the “life” movement would favor putting women in jail and subjecting them to unsafe conditions, it is clear to most feminists that the anti-abortion movement is only concerned with birth.<sup>162</sup> The pro-birth movement values fetuses and potential life over the actual lives of women, migrants, people of color, refugees, LGBTQ+ people, and the fetus’ quality of life after birth. I refer to them as the anti-choice or anti-abortion movement as they do not seem concerned with bettering the lives of people that fall outside a narrow, privileged identity.

Additionally, a climate of criminalization particularly targets “unethical” or “undeserving” women, titles typically afforded to women with addictions, incarcerated women, or women of color. In particular, migrant women were vilified as the wrong type of woman and were rhetorically constructed as undeserving of care by the Trump administration. Because of rhetorical pathologization, America has created a world where imprisoning migrants is “a social service, a public good—even a humanitarian gesture.”<sup>163</sup> A system of arrest, detention, imprisonment, and deportation stoke fear in migrant communities. Fears and anxieties were exemplified by the fact that most detention centers are shrouded in silence; little is known about what goes on inside the facilities. This fact is more disturbing given reports that the National Archives were deleting Trump’s ICE records from his first term, losing documents relating to civil rights violations, sexual abuse, deaths, and shoddy

medical care.<sup>164</sup> But even after the stories of the Jane Doe, Poe, and Roe were made public, reports surfaced of immigration agents ignoring pregnant detainees during miscarriages and leaving them to bleed for hours or days without medical attention.<sup>165</sup> Maltreatment is built into the fabric of the immigration system. This is particularly dangerous because prisons segregate “migrants physically and in the public’s imagination.” They can be easily ignored or forgotten, or remembered as an “unknown threat that requires guards, cameras, and steel doors.” The fact that migrants were detained was “proof that the threat [was] real.”<sup>166</sup> Trump capitalized on a self-fulfilling prophecy; he helped make migrants a threat so that he could be the one to save white America from them.

### **What Is at Stake in Abortion Discourses and Migrant Women**

Even though abortion is an issue that primarily affects women, it has larger cultural consequences for our understandings of gender and women’s political participation. Nathan Stormer explains, “Certainly the health and well-being of women is at stake in abortion regulation and the fate of unborn embryos as well, but more broadly so are relations between genders, classes, races, immigrants, citizens, and religions.”<sup>167</sup> Similarly, Celeste Condit argues that abortion is “central to the reproduction of the human species, to our understandings of gender, and to our life ethics.”<sup>168</sup> Abortion rhetoric clearly shapes many aspects of personal, social, and political life, but it is important to remember that when women’s needs are secondary to an unborn fetus, it is an “indication of how little women [are] valued, as if their only worth [is] the children they produce.”<sup>169</sup> In addition, when the burden of pregnancy and sterilization falls on women, especially given the fact that vasectomies

are easier and less invasive to perform, women's bodies are seen as more disposable than men's.

While there are many possible disagreements over abortion, the three I most prominent in this project are tensions between fetal rights and women's rights, disputes over who should make decisions on abortion, and what types of women are allowed to access abortion care. The first issue is the tension between fetal rights and women's rights. Women's rights are often framed *against* fetal rights, where members of an ideology either support women (pro-choice) or support the fetus (anti-abortion). Pitting women and fetuses against each other create competition between the two and often asks the public to pick a side.<sup>170</sup> When anti-choice groups accentuate the fetus in public discourse and assign humanity to a ball of tissue, they mobilize arguments that abortion is murder, unethical, and inhumane. This rhetoric cultivates an anti-woman framework that ignores the fact that a fetus is housed inside a woman, meaning the outcome of her pregnancy should be her sole decision. Yet, women are described as selfish if they choose abortion or neglect their "motherly instincts." Framing women and fetuses as in competition for rights ensures that abortion remains a debate, one that often implies women should give up some freedoms for the sake of potential life.<sup>171</sup> Similarly, in Chapter Two, we see how the anti-abortion movement frames fetal development as more important than the rights of living, women of color and migrants. Fetuses are the ones who needed saving from negligent and selfish women, and the women themselves are vilified for wanting an abortion.

A related issue for feminists is that men are often the ones who legislate policies pitting women's bodies against fetuses. Abortion rights affect the entire life cycle of women, but women have rarely been the ones deciding their fate. This fact is especially true for the migrant women discussed in this project as white supremacist patriarchy sought reproductive control over migrant women's bodies. Men—male politicians, male judges and justices, male doctors—have had and continue to have the ability to decide what women are permitted to do with their own bodies. For instance, the extremely restrictive Alabama abortion law that would criminalize almost all abortions and subject doctors to up to 99 years in prison, was signed by 25 white Republican men.<sup>172</sup> This echoes a pre-*Roe* world where women often had to get permission from a panel of men to have an abortion, usually having to threaten suicide before men would agree.<sup>173</sup> Because it often involves men *letting* women have abortion rights or punishing them for trying to exercise bodily autonomy, abortion discourse is symbolic of women's liberation in a patriarchal society that actively oppresses women.

The tension between fetal rights and women's rights equates womanhood with motherhood. Anti-choice discourses are often based on traditional gender norms that reinforce women's primary purpose through motherhood and regulate them back into the private sphere. Historically, women's primary role in the U.S. nation-state is reproduction. The ideology of republican motherhood restricted women's duties to raising their sons as future soldiers and their daughters as model wives and sisters.<sup>174</sup> Similarly, motherhood transforms women's bodies from a private, intimate space to a public interest. If a woman is pregnant, she is "judicially and morally compelled" to

relinquish her right to privacy in order to protect state interest in future citizens.<sup>175</sup>

This presumption justifies increased surveillance and policing of pregnant bodies that puts women on notice that their bodies are not their own. Lauren Berlant argues that the “pregnant woman is the main legitimate space in which the category female becomes a national category and changes the meaning of citizenship,” using pregnancy to alter a woman’s relationship to the state.<sup>176</sup>

A second tension is over authority and regulation in abortion cases. As Sanger makes clear, multiple questions remain, “Whose job is it to regulate abortion? Should it even be regulated? Should it be medicine, courts, religion, states, the federal government? Is abortion a right granted by the government, a medical procedure between a woman and her doctor, a moral issue for women and whatever faith they practice, if they do, to determine?” These questions show how abortion is an issue that many facets of public life seek to control.<sup>177</sup> Although people disagree who is affected most by abortion, the reality is that abortion is treated as a legislative and political issue. *Roe* may have legalized abortion, but *Casey* allowed for states to regulate abortion, chipping away access which disproportionately discriminates against low-income, migrant, non-white women and persons with uteruses who might not identify as a woman.<sup>178</sup> In addition, the Trump administration capitalized on anti-abortion momentum to target migrant women and achieve his policy goals. Because the Executive Branch has much control over immigration, Trump and his appointees could restrict abortion rights for migrants easily and quickly. They could start building an anti-abortion and anti-migrant resume that would gain support among white supremacist, nativists, and anti-abortion groups during Trump’s presidency and

for his 2020 re-election bid.

A final tension is the difference between abortion access for women of color and for white women. I discuss this major argument in each chapter of the project, but in brief, migrant women's access to reproductive autonomy is regulated much more severely than white women's abortion rights. The above history shows us how white women have almost always been able to have an abortion, even when it was illegal or criminalized. But for migrant women, their race and "foreignness" encouraged treating their abortion rights with increased suspicion and regulation. Migrant women were subjected to forced birth policies and had their abortion rights further disenfranchised by the Hyde Amendment. They also faced legal debates about their personhood and if they had the right to bodily autonomy in the United States simply because they crossed the U.S.-Mexico border.<sup>179</sup> Their identities were heavily pathologized and white supremacist patriarchy worked to assert reproductive control over them, as shown through the Trump administration and conservative rhetorics during the Trump era.

### **The Road to Trump is Paved with Cruel Intentions**

For some liberals, a Trump presidency was a complete blind-side; they could not imagine how the country could support such an openly-racist and sexist, outrageous person. But for the rest of the nation, they had been waiting for or expecting a candidate like Trump to emerge as backlash against the first Black president. White, conservative, male "anger was simmering long before Trump," and he merely capitalized on these feelings of resentment and anxieties that white people were being replaced by people of color and migrants.<sup>180</sup> In recent decades,

immigration has become “increasingly partisan” and a main issue that divides Democrats from Republicans. The rhetorically constructed “crisis at the border” has fueled nativist concerns and encouraged white people to see migrants as “demographically and racially threatening.”<sup>181</sup> In fact, white Americans with anti-immigrant sentiment “are much more likely than others to identify as Republican and favor Republican candidates” because they have continually made anti-immigration efforts a key part of their political platform.<sup>182</sup>

Trump merely tapped into the nativist and white supremacist sentiment that the Republican Party has centralized. Even conservatives who might not consider themselves nativists have decided that it is not a deal-breaker for them to support a white supremacist like Trump as the face of the Republican Party. Trump became the “loudest” and “ugliest” voice on immigration, and his biggest supporters within the party were those with the most anti-immigrant, anti-Muslim, and racist views.<sup>183</sup> Cristina Beltrán cites numerous studies that show that Trump’s support for punitive, inhumane immigration policies was central to why certain voters supported the Republican Party in general and Trump in particular.<sup>184</sup> In fact, many scholars like Adam Serwer argue that Trump was largely elected because he was part of a conservative backlash against a Black president, one that Trump openly ridiculed and accused of having a fake birth certificate to hide the fact that he was not truly an American citizen. For some outraged Republicans, Trump was elected “to destroy Obama’s legacy.”<sup>185</sup>

There is sometimes a tendency to see Trump as novel because his rhetoric and actions were so extreme, but he was “only the most extreme expression of a brand of

racial politics practiced ever more brazenly by the Republican Party since the 1960s.” Doug McAdam thoroughly traces Trump’s rise to power through the racial resentment that appeals to Republicans from the Civil Rights Era. He argues that a white backlash occurred after Civil Rights that helped center whiteness as a political strategy in the Republican Party.<sup>186</sup> During his candidacy, Trump was said to have “dusted off the old playbook that puts racial fear and grievance on the table” through racist, misogynistic, and xenophobic rhetoric. The “old playbook” refers to former President Richard Nixon (R-CA) and the GOP’s “southern strategy” in the 1960s that weaponized white racial angst about desegregation to court white southern voters.<sup>187</sup> Coded language such as restoring “law and order” mobilized white southern voters’ opposition to equality and desire to maintain racial hierarchies without using overtly racist language.<sup>188</sup> Both Nixon and Trump tapped into white people’s racial animosity to create an “Other” to be the object of rage and revenge.

President Nixon’s brand of racial politics helped pioneer the split between Democrats as the party of social programs, and Republicans as the ones who were exploited to pay for such Democratic “handouts.” The hard-working, law-abiding, “silent (white) majority” capitalized on racial resentments as a key aspect of the Republican Party. This trend continued through President Ronald Reagan (R-CA) and his noteworthy racist imagery like the “welfare queen” image of Black mothers abusing government aid. McAdam attributes the contemporary “upsurge in old-fashioned racism” to the rise of the Tea Party.<sup>189</sup> In a 2010 study conducted by Christopher S. Parker and Matt Baretto, 56 percent of their respondents were supporters of both the Republican Party and the Tea Party Movement. The significant

overlap here was important, especially because their study also found these people to have a social dominance orientation (meaning they believed in strong, social hierarchies) and to express high-levels of fear and antipathy towards President Barack Obama (D-IL).<sup>190</sup> They were motivated by feelings that white people and white, Republican interests were being overshadowed and ignored by a Black president, progressive movements for racial equality and LGBTQ+ rights, and their perception that white people were becoming outnumbered by people of color in the United States. Nixon, Reagan, and other conservative presidents “perfected dog-whistle politics,” but Trump was the “bullhorn.” Even though Trump was a predictable result of racial backlash politics, many Americans were still unprepared for the “blatant racism of Donald Trump.”<sup>191</sup>

Trump’s weaponization of racism, sexism, and nativism was thus “an intensification of a well-established tradition on the Right.”<sup>192</sup> In addition, his rhetoric appeased conservatives who wanted to make privilege popular. His campaign slogan to “Make America Great Again,” which he co-opted from Reagan, was nostalgic and reactionary;<sup>193</sup> it encouraged white men to reclaim an America that existed before the civil rights and women’s liberation movements. The fact that white men did not see themselves in the Obama presidency threatened white male hegemony and created space for men like Trump to capitalize on white anxieties about their perceived loss of privilege.<sup>194</sup> Corey Robin argues that conservatism is fundamentally about maintaining hierarchies, a goal that Trump seemed well-qualified to execute.<sup>195</sup> Trump supporters also seemed to desire something much harsher than policy changes—they wanted “visible displays of cruelty and suffering” to help enforce

racial hierarchies that white people created and continue to benefit from.<sup>196</sup> Although Trump was full of broken promises, his supporters believed him when he said he would use his executive and political power to attack the people who they blame for the state of the nation, their place in it, and their perceived sense of lost entitlement.<sup>197</sup>

Trump therefore capitalized on racist and nativist sentiment to secure white people at the top of the social hierarchy. In doing so, he tapped into rhetorical pathology to vilify migrants and justify his atrocious policies. Trump's stance on immigration was so intensely racist that Laurence Benenson of the National Immigration Forum argued that if Trump had lost, we likely would attribute it to how inhumane and cruel he was about immigrants.<sup>198</sup> To be clear, President Obama did pass policies that caused a record number of migrant expulsions and deportations. He directed ICE to prioritize criminals for deportation and targeted individuals. Activists, especially Latino/a youth activists, mobilized against individual deportations, "which then had an upward impact on administrative policies." Some of Obama's immigration policies were unpopular at the time, but the climate was worsened by Trump who instructed immigration officers to deport any undocumented person, even for minor traffic violations.<sup>199</sup> Because of this, the *Miami Herald* argued that "The biggest accomplishment of Trump's first 100 days" was "Terrorizing undocumented immigrants."<sup>200</sup>

Trump clearly capitalized on white supremacist rhetorics that were infused with patriarchal ideologies. White supremacy and patriarchy are entangled, co-constitutive ideologies in rhetorical pathology. Angie Maxwell and Todd Shields

explain that white resentment towards racial equality “was easily transferred to, or simply intensified by,” misogynistic resentment over gender equality.<sup>201</sup> Patriarchy and white supremacy consequently reify and provide political cover for each other to re(secure) white male’s position “at the top of the raced and gendered societal hierarchies.”<sup>202</sup> Both whiteness and patriarchy need an “Other” to dominate, which explains why Trump preyed on migrant women.<sup>203</sup> I envision the following project to analyze how Trump and Trump loyalists were able to terrorize migrant women and how Brown activist women spoke back to power.

### **Project Details**

As shown, the erosion of abortion rights under the Trump administration, especially for migrant women, was alarming. This project situates the swift and substantive erosion of such rights in the history of U.S. restrictions and activism surrounding immigration and abortion. Specifically, this project examines the reproductive injustices that the Trump era capitalized on to appeal to a conservative base by promulgating white supremacy and patriarchal ideology. I begin with the assumption that the administration’s pathological characterizations of migrants have a deep history in U.S. politics.<sup>204</sup> I am guided by the following three research questions:

How does the U.S. government during the Trump era (i.e., the Trump administration and his appointees, federal organizations, Supreme Court, Congress, and state legislatures) rely on rhetorics of pathology that are gendered, raced, and Otherized in constituting the identities of migrant women pursuing their reproductive rights?

How are the reproductive rights of migrant women occluded by the xenophobic, sexist, and racist ideologies and practices that animate federal policies and legal precedents that govern U.S. immigration, U.S.-Central American relations, and women's reproductive rights?

How do social justice activists and migrant women integrate intersecting feminist and social justice ideologies in speaking back to attacks on the bodily autonomy of migrant women?

### *Scope of Study*

This project examines the pathological rhetorics used to discuss migrant women's reproduction in the United States, with a purpose of exposing governmental abuses at the federal and state levels during the Trump era. Trump was a one-term president so this study encompasses the four years of his administration, 2017-2021. I focus on migrant women from Mexico and Central America (mostly El Salvador, Guatemala, and Honduras).<sup>205</sup> Part of the project focuses on rhetorics of social control aggrandized by the Trump administration, government organizations, and members of Congress to police women's reproductivity at the U.S.-Mexico border and in U.S. migrant communities. Because Trump's directives affected the operation of many other government entities, I will also examine policies enacted by lower courts and the Supreme Court, Congress, states legislatures, and immigration officials that extended the power of Trump and conservatives more broadly. The other part of this project features the rhetoric of BIPOC activists seeking to protect Brown women's abortion rights and bodily autonomy under Trump's terror by speaking back to rhetorical pathology. This project ultimately intersects abortion rights and migrant

rights, echoing the argument that immigration is a feminist and reproductive justice issue and that white supremacy and patriarchy are deeply entangled ideologies.

This project is significant for two primary reasons. First, although oppressing migrant women's reproductivity is not a new phenomenon, it is a particularly timely one as the Trump administration greatly stigmatized, eroded, and blocked migrant rights. In a time of heightened border security, deportation, and family separation, stories like Jane Doe's were particularly important for continued fights in support of women's bodily autonomy and migrant rights. Some 76 percent of migrants in detention centers are women and 28 women reported miscarriages from 2017-2018 in these facilities.<sup>206</sup> This project investigates what rhetorics helped get America to the point where these alarming statistics gain little attention in the press. Second, this project gives voice to the oppression and injustices that migrant women and girls continually faced. They were some of the most vulnerable people in the U.S. immigration system, with unique mental health and reproductive needs. Many experienced trauma and gender-based violence, but received little attention or aid. I am compelled to use this project to centralize migrant voices and experiences, and break through some of the silences that white supremacists and misogynists have used as political cover for their atrocious behaviors.

### *Critical Lenses*

This project centralizes the role of rhetoric in the abortion and immigration debates during the Trump era. Andrea Lunsford defines rhetoric as "the art, practice, and study of human communication."<sup>207</sup> In this project, I examine how rhetoric can oppress and liberate. In aiding oppression, rhetoric can act as a wedge between

individuals, races, genders, classes, etc., as shown through the reproductive injustices inflicted on migrant women under Trump's leadership and worsened by the Republican Party's ability to capitalize on racist, nativist, and misogynists rhetorics. The Trump administration and allied conservatives encouraged voters to see abortion and immigration through hate and vitriol, rather than care and respect. On the other hand, this project shows how rhetoric can liberate, by studying the rhetoric of migrant women and the activist groups working to help migrants access healthcare and exercise their rights to reproductive autonomy in a climate of criminalization. Rhetoric here acts a bridge between communities and a tool for social justice. In this view of rhetoric as a positive force for social change, rhetoric is necessary to persuade each other to develop a shared vision of a just and equitable future.<sup>208</sup>

The humanity of migrants should be enough for the United States to care about them (what Rogers M. Smith calls the "general case for supporting diverse forms of human self-realization"). As Smith argues, migrants are entitled to equitable treatment even as non-US citizens based on the country's history as a colonial power. Smith reasons that America has "special obligations toward most residents of their former or current colonies" insofar as persons from those nations have had their "identities, aspirations, and interests" "coercively constituted" by former and current colonial powers.<sup>209</sup> A rhetorical approach can help investigate this history of oppression and expose social injustices and systems of domination, while also giving voice to marginalized peoples.

Moreover, rhetorical history helps account for multiple contexts and raises critical questions about whose identities have been privileged. Here, I employ David

Zarefsky's senses of rhetorical history as both a "study of rhetorical events from a historical perspective" and a "historical study of rhetorical events."<sup>210</sup> This project focuses on history, especially because much of the contemporary rhetorics about migrant women mimic historical arguments used to forcefully sterilize or deport them. Because of this project's dual emphasis on gender and race, I apply Carly Woods' conception of intersectional rhetorical history to this project, which is "concerned with shifting webs of relationships rather than singular articulations of identity in historical contexts."<sup>211</sup> Analyzing contexts critically, through rhetorics of pathology and intersectionality, helps expose the violence and systemic injustices migrant women face.

#### *Rhetorics of Pathology*

As briefly mentioned above, Stormer argues that abortion and immigration have been historically viewed as a "signs of pathology—a measure of an afflicted society," in the United States.<sup>212</sup> Pathology is evidence of something wrong in the world. It is intimately tied to social organization and what we as a society denote as valuable. In the nineteenth century, abortion was seen as a disease that inhibited social progress and created cultural stress. For Stormer, these historical connotations shape societal perceptions of abortion as a measure of "collective disorder."<sup>213</sup> He argues that even today, both anti-choice and pro-choice groups describe abortion as adverse and undesirable; the only difference is that one affirms the right to abortion despite its negative associations.<sup>214</sup> Even in the extremely restrictive Alabama abortion law, Democrat Linda Coleman included a caveat that "we want [abortions] to be few" in a speech supporting abortion rights.<sup>215</sup> This rhetoric perpetuates the idea

that abortion is negative and overall a bad experience. Such a view directly contradicts the fact that many women describe abortion as life-affirming and empowering.<sup>216</sup>

But abortion as pathology is rhetorical, not factual. Stormer defines pathology as an “evaluation that a different way of existing [in this case, abortion] is negative or undesirable.”<sup>217</sup> Historical records that frame abortion as pathological invade conservative discourses and help describe abortion as abhorrent, a pathological problem that affects the wellbeing of the American way of life. These strategies work to make abortion a crime against the nation.<sup>218</sup> This rhetoric also justifies restrictions that are based on pseudoscience, inaccurate information, or have been so widely circulated in the conservative nomenclature that they are simply taken as fact.

Immigration as a political issue and (im)migrant people have also been historically vilified by rhetorical pathology. We saw this through Trump’s discourse referring to migrant presence in the United States as an “invasion” or “pollution.” In Susan Sontag’s work, she argues that pathology is a stigmatization that creates a “spoiled identity.”<sup>219</sup> Anti-migration rhetoric reflects the idea of “spoiled identity” and the political paranoia that often accompanies it. Such characterizations mark migrants as less than human, drains on American resources, or invaders threatening the safety of Americans. Sontag explains that pathology is commonly assigned to people who indulge in “negligent” behaviors such as crossing the border, having premarital sex, or taking advantage of the welfare system. Characterizations like these “become the dominant frame for how a person or group of people is seen by others.”<sup>220</sup> This is particularly dangerous because pathology is associated with

contagiousness—descriptions of one migrant as deviant ensures that all migrants are demonized. Rhetorical pathology also dehumanizes an entire group of people, suggesting that their presence and behaviors incite the moral downfall of the nation. Studying the reproductivity of migrant women through a pathology lens helps uncover how a racist patriarchy continued to blame migrants for their choices and systematically denied them bodily autonomy.

*Feminist and LatCrit Approaches to the Study of Pathology*

To assess how rhetorics of pathology are gendered, raced, and Otherized, I first adopt a feminist approach to the study of pathology. I mostly follow Chimamanda Ngozi Adichie definition of feminism as advocating for the “social, political, and economic equality of the sexes,” but I extend her definition to read, “equality of the sexes *and genders*.”<sup>221</sup> As a feminist, my purpose with this project is to center the humanity of migrant women all-the-while exposing reproductive injustices facing migrant women. I seek to uncover the oppressive rhetorics and policies that criminalize and dehumanize Brown women because of their gender, race, nationality, and class. This study uses feminism as a critical perspective to centralize women’s perspectives, experiences, and humanity, and combat rhetorics that deny them rights, silence their voices, curtail their bodily autonomy.

Similarly, I also use Latino/a critical race theory (LatCrit) in the study of pathology to expose the insidiousness of whiteness and the Othering of pathology and citizenship in white America.<sup>222</sup> In brief, critical race theory (CRT) began as a way to “treat race as central to the law and policy of the United States” but has been expanded and is largely understood as an educational framework for how to analyze

race in various settings.<sup>223</sup> LatCrit more specifically examines the “ways Latinas/os experience race, class, gender, and sexuality, while also acknowledging the Latina/o experience with issues of immigration status, language, ethnicity and culture.”<sup>224</sup> Through a more focused examination of the unique oppression of Latinx peoples, LatCrit is well-suited for studying migrant women as a “theory that has already developed a tradition of offering a strong gender analysis.”<sup>225</sup> Like many scholars who study critical race theory and LatCrit, I am attracted to the approach’s activist dimension; it “not only tries to understand our social situation, but to change it.”<sup>226</sup>

Moreover, CRT and LatCrit allow for the interrogation of whiteness, specifically its power to uphold white supremacy.<sup>227</sup> As briefly shown through the history of abortion in the United States, race, nationality, and citizenship status greatly determines a woman’s access to abortion and safe reproductive healthcare. Anti-abortion and anti-migrant discourses force migrants to carry their fetuses to term, but refuse to grant them paths to citizenship or access to this country’s benefits. These policies are built on rhetorics of white supremacy, capitalizing on a racist history that white people should not have abortions to preserve white racial purity and a “property interest in whiteness.”<sup>228</sup> Because of this, it is important for this project to consider how white supremacy and anti-abortion philosophies are written onto policies that discriminate against reproductive autonomy and disproportionately impact non-white bodies, like migrant women and Jane Doe.<sup>229</sup>

When whiteness is seen as the normal, default, or dominant position, people of color and migrants become Otherized. As a pathological Other, migrants are punished through the immigration system and a white supremacist administration that

blamed migrants for the moral downfall of the nation. Similarly, race becomes a barrier to empowerment and freedom when we equate non-white races and cultures with illness. Davi Johnson Thornton argues that because of structural racism, race constitutes a “pathological impediment to health and mobility” that can create adverse health outcomes.<sup>230</sup> These outcomes make pathology an important critical framework for the project as it intersects race and health to unmask America’s abusive treatment of migrant women.

These critical lenses expose and condemn violence inflicted on migrant women by the state, while challenging dominant notions of citizenship. Rogers M. Smith explains how citizenship in American history has been “ascriptive” in many ways by conceptualizing “citizenship” as something based on one’s place of birth or the “involuntary acquired traits that differentiate people” according to race, ethnicity, gender, and sexual orientation.<sup>231</sup> Lisa Flores argues that this idea of citizenship, “both that formal status afforded the elite and the informal practice of living in and contributing to the nation,” is based more on “exclusion. . . than inclusion.”<sup>232</sup> Because of its exclusivity, Flores advocates that we move away from notions of legal citizenship and create discursive spaces that allow for “a marginalized group to reverse existing and external definitions [of citizenship] and to create their own definitions.”<sup>233</sup> Similarly, Karma Chávez decenters “citizenship” and moves toward a recognition of human and labor rights. She explains that “citizens of all kinds are needed to promote human rights for all people.”<sup>234</sup> Following Flores and Chávez, this project is not concerned with a migrant’s citizenship status and instead privileges a human-rights perspective.<sup>235</sup>

### *Chapter Details*

In this project, I study anti-abortion and anti-migrant rhetorics during the Trump era (2017-2021) to identify the efforts to control Brown women's reproductivity on the U.S. southern border. The project at once examines the rhetorics and policies of governmental oppression targeting migrant women's reproductivity combined with the efforts of Brown women to assure their reproductive freedom and to fight back against such rhetorics of control. Policies and statements during the Trump era reflected the tenets of pathology to construct an enemy that only Trump's administration was qualified to neutralize through deportation, arrest, extreme legislation, and reproductive control over migrant women's bodies. It helped him pass inhumane policies like family separation, forced birth, and detaining pregnant women at high rates. Yet, rhetorics during the Trump era also reveal the contradictions inherent in pathology rhetorics about migrant women seeking abortions or support for themselves and their children. Such hypocrisies are shown in the way the Trump administration and his supporters humanized the fetus, but dehumanized women and children by refusing to offer them state support. They claimed that anti-abortion policies protect women and fetuses, but ignored the health and economic needs of women of color and migrant communities. They argued that their platform prevented "racial genocide" by saving Black and Brown babies from abortion while they reified white supremacist policies that restricted their rights and blocked paths to freedom. And they demanded full disclosure from migrants and put them under heightened surveillance, just to keep the abuse they inflicted on migrants secret and hidden from the public eye.

Rhetorical pathology is full of contradictions because it contorts itself across different scenarios to support an anti-abortion and anti-migrant agenda. For instance, being pro- and anti-birth was justified when the outcome was reproductive control over migrant women. White supremacy and patriarchy are entangled and co-constitutive ideologies that help these contradictions “make sense” or are at least justified for Trump supporters and anti-abortion groups. This study highlights many instantiations of rhetorical pathology such as abortion exceptionalism, compulsory motherhood, and debilitation strategies. As rhetorical pathology contorts itself to strengthen white supremacy and patriarchy, many sub-rhetorics operate within rhetorical pathology as conservatives try to reconcile their competing logics. As long as the end goal is control over migrant women, the means justify the end.

I also show in this study how white supremacy and patriarchy dominate by co-opting progressive language. For instance, pro-migrant groups support sanctuary cities for migrants and in response, anti-abortion groups have created sanctuary cities for the unborn. Pro-choice groups use abortion exceptionalism to argue that abortion is regulated more severely than other rights while anti-choice groups use abortion exceptionalism to claim that abortion is granted special and unwarranted privileges in the law. Anti-abortion groups have also co-opted social justice rhetoric to argue that Babies Lives Matter, directly undermining Black Lives Matter advocacy. Mimicking progressive rhetoric undercuts its force and power while also allowing the right to define themselves as social justice warriors, fighting on behalf of Brown women and migrants at the southern border of the United States.

Because white supremacists and misogynists co-opt progressive rhetoric, Brown women activists have to do rhetorical work to use the oppressive tactics against their oppressors. As such, Brown women activists re-appropriated the rhetorical power that conservatives mimicked to justify their inhumane policies. These migrant activists reclaimed their rhetorical power of definition and used rhetorical secrecy to combat rhetorical pathologizations. This project hopes to reveal how Brown women also undermined the power of rhetorical pathology and centered migrant women's reproductive rights at the southern U.S. border in abortion and immigration debates.

In Chapter One, I outline the policies governing ICE and the ORR, including Trump's directives to immigration officials. I also analyze the concurring and dissenting opinions in *Garza v. Hargan* (2018), the Supreme Court case that ultimately ruled in favor of Jane Doe and young, migrant girls' abortion rights. I argue that the Trump administration used compulsory motherhood and abortion exceptionalism as instantiations of rhetorical pathology. Rhetorical pathology helped the Trump administration justify detaining more pregnant migrants than ever seen in American history and helped his appointee, Scott Lloyd, enact policies that terrorized migrant women in ORR custody. Women were left to miscarry, some bleeding for many hours, with a lack of access to doctors and medical care. Pathological rhetorics also forced birth onto detained migrant women at the expense of women's quality of life and the future child's wellbeing. Not only did the administration force birth onto migrants, but they also worked to block paths to citizenship and healthcare protections for them and their future children. The administration pathologized

“anchor babies” and birthright citizenship to deport migrants or keep them in a permanent state of deportability. In order to exercise control over migrant women, the state denied their abortion rights while also ensuring that they would have little to no institutional protections once the children were born.

In Chapter Two, I assess reproductive punishments and anti-choice policies on a broader scale (outside of ICE and the ORR). Trump officials and conservative leaders during his presidency used rhetorical strategies that described migrants as “public charges.” They also used debilitation rhetoric, which targeted migrants for death, but not killing, by eroding migrant access to healthcare. The administration also tried to appear pro-woman by adopting a “love them both” approach to abortion, but even with this approach, they still elevated fetal rights over women’s rights.<sup>236</sup> Here, I use LatCrit as a critical lens to analyze policies that have been reinstated or created during Trump’s presidency such as the Global Gag Rule, Title X, the Public Charge Rule, and the Zero Tolerance immigration policy. I analyze how white supremacy and patriarchy function as unifying ideologies in Trump’s policies that co-opt progressive language to justify their words and policies. Anti-abortion groups have also co-opted social justice rhetoric to argue that Babies Lives Matter, which directly undermines Black Lives Matter advocacy. They also use the 14<sup>th</sup> Amendment to advocate for fetal personhood, while the amendment has been historically used to protect civil rights for people of color. Mimicking progressive rhetoric undercuts its force while also allowing the right to define themselves as social justice warriors fighting on behalf of Brown women and migrants at the southern border of the United States.

As white supremacists and misogynists co-opt progressive rhetoric, Brown women activists have to also do rhetorical work to turn the oppressive tactics against their oppressors. I thus study the ways that Brown women activists examined in Chapter Three re-appropriated the rhetorical power that conservatives mimicked to justify their inhumane policies. I use LatCrit and feminist lenses to highlight the rhetoric of migrant women activists and organizations who resisted reproductive oppression during the Trump era. I analyze how Brown women activists combatted rhetorical pathology by reclaiming and re-appropriating the rhetorical power of definition and mobilizing rhetorical secrecy to their advantage. Brown women activists used narrative, abortion funds, a *promotoras* model of community-led healthcare, whisper networks, and social media to help Brown women access abortion. In addition, I argue that pro-migrant legislation was important in the fight against the Trump administration. This chapter uses instrumentalist and constitutive frameworks to argue that bills advocating for migrant women's healthcare and freedom brought attention to migrant women's issues and centralized their oppression in the abortion and immigration debates at the southern U.S. border.<sup>237</sup>

The conclusion recaps major arguments from the study and implications about the Trump administration and its conservative allies' use of rhetorical pathology to vilify and erode migrant women's abortion rights. I discuss the major implications involving rhetorical pathology's lasting power in the wake of Trump's presidential defeat.

I move next to a focus on the oppressive rhetoric of forced birth through Office of Refugee Resettlement policy that reinforces the brutality that pregnant

migrants experienced as they sought economic and political freedom in the United States.

#### Notes for the Introduction

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<sup>1</sup> To respect Doe’s privacy and safety, the name of her home country was never made public. Records only indicate that she was from Central America.

<sup>2</sup> Rachel Siegel, “The Trump Official Who Tried to Stop a Detained Immigrant from Getting an Abortion,” *Washington Post*, October 26, 2017, <https://www.washingtonpost.com/news/post-nation/wp/2017/10/26/the-trump-official-who-tried-to-stop-a-detained-immigrant-from-getting-an-abortion/>.

<sup>3</sup> Stacy Sullivan, “Second Legal Battle Over Abortion Rights for Immigrant Teens Takes Unexpected Turns,” *ACLU*, December 20, 2017, <https://www.aclu.org/blog/reproductive-freedom/abortion/second-legal-battle-over-abortion-rights-immigrant-teens-takes>.

<sup>4</sup> Mark Joseph Stern, “Scott Lloyd Tells All,” *Slate*, April 5, 2018, <https://slate.com/news-and-politics/2018/04/aclu-deposition-shows-scott-lloyd-abused-power-to-prevent-undocumented-minors-from-getting-abortions.html>.

<sup>5</sup> Doe’s lawsuit sued Lloyd, Eric Hargan, Acting Secretary of DHHS, and Stephen Wagner, Acting Assistant Secretary of the Administration for Children and Families.

<sup>6</sup> “Views of Domestic Issues: Race, Immigration, Health Care, Abortion, Supreme Court,” *Pew Research Center*, October 27, 2016, <https://www.pewresearch.org/politics/2016/10/27/6-views-of-domestic-issues-race-immigration-health-care-abortion-supreme-court/>.

<sup>7</sup> “The Trump Administration’s “Zero Tolerance” Immigration Enforcement Policy,” *Congressional Research Service*, February 2019,

<https://fas.org/sgp/crs/homesecc/R45266.pdf>.

<sup>8</sup> Juan Escalante, “ICE Is Distorting the Truth to Keep Up with Trump's Anti-Immigrant Agenda,” *Huffington Post*, March 17, 2018,

[https://www.huffpost.com/entry/opinion-escalante-ice-lies-trump\\_n\\_5aac2e50e4b0c33361b070f4](https://www.huffpost.com/entry/opinion-escalante-ice-lies-trump_n_5aac2e50e4b0c33361b070f4).

<sup>9</sup> Donald Trump, “Executive Order: Enhancing Public Safety in the Interior of the United States,” *White House*, January 25, 2017,

<https://www.whitehouse.gov/presidential-actions/executive-order-enhancing-public-safety-interior-united-states/>.

<sup>10</sup> *Immigration Nation*, directed by Christina Clusiau and Shaul Schwarz (Brooklyn: Reel Peak Films, 2020), documentary film.

<sup>11</sup> Steven Benen, “Trump’s Promise: ‘I Will Appoint Judges that Will be Pro-life’,” *MSNBC*, May 11, 2016, <http://www.msnbc.com/rachel-maddow-show/trumps-promise-i-will-appoint-judges-will-be-pro-life>.

<sup>12</sup> “Trump Discusses Judge Amy Coney Barrett, the Fate of Roe v. Wade | Full Interview,” *Fox News YouTube*, September 27, 2020,

<https://www.youtube.com/watch?v=aQ1vqDiyKC8>.

<sup>13</sup> “President Donald J. Trump Releases Letter to Pro-Life Leaders,” *Donald J. Trump*, September 3, 2020, [https://cdn.donaldjtrump.com/public-](https://cdn.donaldjtrump.com/public-files/press_assets/pro-life-letter-potus.pdf)

[files/press\\_assets/pro-life-letter-potus.pdf](https://cdn.donaldjtrump.com/public-files/press_assets/pro-life-letter-potus.pdf).

<sup>14</sup> The Global Gag Rule was originally created under President Reagan in 1984. Clinton rescinded the policy, but it was reinstated under Bush. Obama then rescinded the policy, but it was reinstated under Trump.

<sup>15</sup> “Remarks by President Trump at the 47th Annual March for Life,” *White House*, January 24, 2020, <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-47th-annual-march-life/>.

<sup>16</sup> César Cuauhtémoc García Hernández, *Migrating to Prison: America’s Obsession with Locking Up Immigrants* (New York: The New Press, 2019), 87.

<sup>17</sup> Elena R. Gutiérrez, *Fertile Matters (Chicana Matters)* (Austin: University of Texas Press, 2008), 3.

<sup>18</sup> Eric Stanley and Nat Smith, *Captive Genders: Trans Embodiment and the Prison Industrial Complex* (San Francisco: AK Press, 2011), 4.

<sup>19</sup> Johanna Schoen, *Choice and Coercion: Birth Control, Sterilization, and Abortion in Public Health and Welfare* (Chapel Hill: The University of North Carolina Press, 2005), 2.

<sup>20</sup> Jeanne Flavin, *Our Bodies, Our Crimes: The Policing of Women’s Reproduction in America* (New York: NYU Press, 2010), 14.

<sup>21</sup> Eithne Luibhéid, *Pregnant on Arrival: Making the Illegal Immigrant* (Minneapolis: University of Minnesota Press, 2013), 9; 126.

<sup>22</sup> A list of some Trump’s anti-immigrant policies and public statements are listed above, but more detail can be provided here: Mary Romero, “Trump’s Immigration Attacks, in Brief,” *Contexts* 17, no. 1 (2018): 34-41, doi:

10.1177/1536504218766549.

<sup>23</sup> Luibhéid, *Pregnant on Arrival*, 126.

<sup>24</sup> Zolan Kanno-Youngs, “Trump Moves to Block Visas for Pregnant Women on ‘Birth Tourism’,” *New York Times*, January 23, 2020, <https://www.nytimes.com/2020/01/23/us/politics/trump-travel-ban-pregnant-women.html>.

<sup>25</sup> Nellie Bowles, “‘Replacement Theory,’ a Racist, Sexist Doctrine, Spreads in Far-Right Circles,” *New York Times*, March 18, 2019, <https://www.nytimes.com/2019/03/18/technology/replacement-theory.html>.

<sup>26</sup> Shirley Chisholm, *Unbought and Unbossed: Expanded 40<sup>th</sup> Anniversary Edition* (Boston: Take Root Media, 2010), 111.

<sup>27</sup> I refer to “women” mostly as a political category. I do not wish to erase the lives of transgender, nonbinary, gender non-conforming people, or people with uteruses.

<sup>28</sup> Jennifer Denbow, “Abortion: When Choice and Autonomy Conflict,” *Berkeley Journal of Gender, Law, and Justice* 20, no. 13 (2005): 216-228, 216.

<sup>29</sup> *Roe et al. v. Wade, District Attorney of Dallas County*, 410 U.S. 113 (1973), 114.

<sup>30</sup> Wendy Harcourt, *Body Politics in Development: Critical Debates in Gender and Development* (New York: Zed Books, 2009), 25.

<sup>31</sup> Laura Briggs, *How All Politics Became Reproductive Politics* (Oakland: University of California Press, 2017), 4.

<sup>32</sup> Laura Kaplan, *The Story of Jane: The Legendary Underground Feminist Abortion Service* (Chicago: University of Chicago Press, 1995), x.

<sup>33</sup> Stormer, *Sign of Pathology: U.S. Medical Rhetoric on Abortion, 1800s-1960s* (University Park, PA: Pennsylvania State University Press, 2015), 1.

- <sup>34</sup> Caroline Marla Corbin, "Abortion Distortions," *Washington and Lee Law Review* 71, no. 2 (2014): 1176.
- <sup>35</sup> Erwin Chemerinsky, "Rationalizing the Abortion Debate: Legal Rhetoric and the Abortion Controversy," *Buffalo Law Review* 31, no. 1 (1982): 107-164, 109.
- <sup>36</sup> Stormer, *Sign of Pathology*, 31.
- <sup>37</sup> Rosalind Pollack Petchesky, *Abortion and Woman's Choice: The State, Sexuality, and Reproductive Freedom* (Boston: Northeastern University Press, 1990), ix.
- <sup>38</sup> Zoila Acevedo, "Abortion in Early America," *Women & Health* 4, no. 2 (1979): 121-133, 121.
- <sup>39</sup> *Ibid.*
- <sup>40</sup> George Devereux, "A Typological Study of Abortion in 350 Primitive, Ancient, and Pre-Industrial Societies," in *Abortion in America*, ed. Harold Rosen (Boston: Beacon, 1967), 98.
- <sup>41</sup> Marvin Olasky, *Abortion Rites: A Social History of Abortion in America* (Wheaton: Crossway Books, 1992), 20.
- <sup>42</sup> Acevedo, "Abortion in Early America," 160.
- <sup>43</sup> *Ibid.*, 159.
- <sup>44</sup> Stormer, *Sign of Pathology*, 3.
- <sup>45</sup> Petchesky, *Abortion and Woman's Choice*, 101.
- <sup>46</sup> *Ibid.*
- <sup>47</sup> Leslie J. Reagan, *When Abortion Was a Crime: Women, Medicine, and Law in the United States, 1867-1973* (Berkeley: University of California Press, 1997), 1.

<sup>48</sup> Rebecca Chalker and Carol Downer, *A Woman's Book of Choices: Abortion, Menstrual Extraction, RU-486* (New York: Four Walls Eight Windows, 1992), 1.

<sup>49</sup> Alan F. Guttmacher, *The Case for Legalized Abortion Now* (Berkeley: Diablo Press, 1967), 1.

<sup>50</sup> Typically, an abortion is a desired or intended end to a pregnancy. A miscarriage is usually accidental loss of pregnancy.

<sup>51</sup> Olasky, *Abortion Rites*, 20-21.

<sup>52</sup> While this passage is quoted in Olasky (1992, 21), its original quotation is derived from *Proprietary v. Mitchell* in the *Archives of Maryland* (Baltimore: Maryland Historical Society, vol. 10, 176).

<sup>53</sup> *Ibid.*, 22.

<sup>54</sup> Acevedo, "Abortion in Early America," 162.

<sup>55</sup> Olasky, *Abortion Rites*, 25-27.

<sup>56</sup> Acevedo, "Abortion in Early America," 160.

<sup>57</sup> Using drugs to end a pregnancy decreased in the twentieth century and did not return as a popular abortion method until FDA approval of RU-486 in 2000.

<sup>58</sup> Reagan, *When Abortion Was a Crime*, 9.

<sup>59</sup> Carroll Smith-Rosenberg, *Disorderly Conduct: Visions of Gender in Victorian America* (New York: Oxford University Press, 1985), 222.

<sup>60</sup> Acevedo, "Abortion in Early America," 161-162.

<sup>61</sup> Olasky, *Abortion Rites*, 24.

<sup>62</sup> Acevedo, "Abortion in Early America," 163.

<sup>63</sup> Dorothy Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty* (New York: Vintage Books, 1997), 47.

<sup>64</sup> Robin Marty, *Handbook for a Post-Roe America* (New York: Seven Stories Press, 2019), ix.

<sup>65</sup> Reagan, *What Abortion Was a Crime*, 8.

<sup>66</sup> Joseph Taber Johnson, "Abortion and its Effects," *American Journal of Obstetrics and Diseases of Women and Children* 33 (January 1896): 91.

<sup>67</sup> Reagan, *When Abortion Was a Crime*, 10.

<sup>68</sup> James C. Mohr, *Abortion in America: The Origins and Evolution of National Policy, 1800-1900* (New York: Oxford University Press, 1978), 3.

<sup>69</sup> Reagan, *When Abortion Was a Crime*, 7.

<sup>70</sup> *Ibid.*, 8. American common law on abortion was after modeled English law. See Cyril C. Means, "The Law of New York Concerning Abortion and the Status of the Foetus, 1664-1968: A Case of Cessation of Constitutionality," *New York Law Reform* 14, no. 3 (1968): 419-426 for a more comprehensive account of common law and abortion.

<sup>71</sup> Reagan, *When Abortion Was a Crime*, 8.

<sup>72</sup> Petchesky, *Abortion and Woman's Choice*, 79; Conn. Stat., Tit. 20, 14 (1821).

<sup>73</sup> Acevedo, "Abortion Rights in Early America," 161; 103.

<sup>74</sup> James A. Morone, *Hellfire Nation: The Politics of Sin in American History* (New Haven: Yale University Press, 2003), 250.

<sup>75</sup> Mohr, *Abortion in America*, 46.

<sup>76</sup> *Ibid.*, 47.

- <sup>77</sup> Smith-Rosenberg, *Disorderly Conduct*, 223.
- <sup>78</sup> Acevedo, "Abortion Rights in Early America," 162-165.
- <sup>79</sup> Reagan, *When Abortion Was a Crime*, 15.
- <sup>80</sup> Smith-Rosenberg, *Disorderly Conduct*, 231.
- <sup>81</sup> Reagan, *When Abortion Was a Crime*, 10.
- <sup>82</sup> Petchesky, *Abortion and Woman's Choice*, 76.
- <sup>83</sup> Horatio R. Storer, et al, "Report on Criminal Abortion," *Transactions of the American Medical Association* 12 (1859): 75-78, 75.
- <sup>84</sup> Smith-Rosenberg, *Disorderly Conduct*, 231.
- <sup>85</sup> Reagan, *When Abortion Was a Crime*, 11.
- <sup>86</sup> *Ibid.*, 14.
- <sup>87</sup> Horatio R. Storer, "The Criminality and Physical Evils of Forced Abortions," *Transactions of the American Medical Association* 16 (1866): 709-45.
- <sup>88</sup> Reagan, *When Abortion Was a Crime*, 12.
- <sup>89</sup> Barbara Welter, "The Cult of True Womanhood: 1820-1860," *America Quarterly* 18, no. 2 (1966): 151-174.
- <sup>90</sup> Rupe Simms, "Controlling Images and the Gender Construction of Enslaved African Women," *Gender and Society* 15, no. 6 (2001): 879-897.
- <sup>91</sup> Alexandra Minna Stern, *Eugenic Nation: Faults and Frontiers of Better Breeding in Modern America* (Oakland: University of California Press, 2016), 229.
- <sup>92</sup> Reagan, *When Abortion Was a Crime*, 3.
- <sup>93</sup> Mohr, *Abortion in America*, 89-90.
- <sup>94</sup> Bowles, "Replacement Theory."

- <sup>95</sup> Mohr, *Abortion in America*, 73.
- <sup>96</sup> Horatio R. Storer, *Why Not? A Book for Every Woman* (Boston: Lee and Shephard, 1868), 65.
- <sup>97</sup> Reagan, *When Abortion Was a Crime*, 12-13.
- <sup>98</sup> Carol Sanger, *About Abortion* (Cambridge: Harvard University Press, 2017), 71.
- <sup>99</sup> Roberts, *Killing the Black Body*, 64.
- <sup>100</sup> Jennifer L. Holland, *Tiny You: A Western History of the Anti-Abortion Movement* (Oakland: University of California Press, 2020), 4-5.
- <sup>101</sup> Angelina Chapin, “Drinking Toilet Water, Widespread Abuse: Report Details ‘Torture’ For Child Detainees,” *Huffington Post*, July 17, 2018, [https://www.huffingtonpost.com/entry/migrant-children-detail-experiences-border-patrol-stations-detention-centers\\_us\\_5b4d13ffe4b0de86f485ade8](https://www.huffingtonpost.com/entry/migrant-children-detail-experiences-border-patrol-stations-detention-centers_us_5b4d13ffe4b0de86f485ade8).
- <sup>102</sup> Roberts, *Killing the Black Body*, 101.
- <sup>103</sup> Charles Goethe, “Other Aspects of the Problem,” *Current History* 28 (1928): 768.
- <sup>104</sup> Rogers M. Smith discusses the relationship between citizenship obligations and reproducing the ideal family. See: Rogers M. Smith, *Civic Ideals: Conflicting Visions of Citizenship in U.S. History* (New Haven, CT: Yale University Press, 1997).
- <sup>105</sup> Rickie Solinger, *Pregnancy and Power: A Short History of Reproductive Politics in America* (New York: New York University Press, 2007), 97.
- <sup>106</sup> “Quarantine Riot in Juarez, Women Lead Demonstrations against American Regulations,” *New York Times*, January 29, 1917; “200 Women Lead in Assault at Bridge,” *El Paso Herald*, January 29, 1917.
- <sup>107</sup> Stern, *Eugenic Nation*, 68.

<sup>108</sup> Ibid., 231.

<sup>109</sup> Ibid., 58.

<sup>110</sup> Eugenicist Paul Bowman Popenoe wrote many letters and newspaper articles at the time about gender and eugenics. See: Paul Bowman Popenoe, “Why Are Women Like That?” Papers of Paul Bowman Popenoe, American Heritage Center, University of Wyoming.

<sup>111</sup> Madison Grant, *Passing of the Great Race* (New York: Charles Scribner’s Sons 1916), xviii, 32.

<sup>112</sup> Stern, *Eugenic Nation*, 176.

<sup>113</sup> In 1973, sterilization was the most commonly chosen contraceptive method used by Americans aged thirty to forty-four. American women were seeking elective sterilization rights at a time where migrant women were involuntary sterilized. See: Stern, *Eugenic Nation*, 223.

<sup>114</sup> Stern, *Eugenic Nation*, 229.

<sup>115</sup> *Buck v. Bell*, 274 U.S. 200 (1927).

<sup>116</sup> Stern, *Eugenic Nation*, 214.

<sup>117</sup> “U.S. Failing to Solve Illegal Alien Problem,” *Denver Post*, October 7, 1974.

<sup>118</sup> Stern, *Eugenic Nation*, 223-224.

<sup>119</sup> Beverly Padilla, “Chicanas and Abortion,” in *Chicana Feminist Thought: The Basic Historical Writings*, ed. Alma M. Garcia (New York: Routledge, 1997), 120-121.

<sup>120</sup> Reagan, *When Abortion Was a Crime*, 14.

<sup>121</sup> Petchesky, *Abortion and Woman’s Choice*, 114.

<sup>122</sup> Margaret Sanger, *Woman and the New Race* (New York: Bretnao, 1920), 93; Sanger's work on birth control did extend the eugenics mission. See: Margaret Sanger, "The Eugenic Value of Birth Control Propaganda," *Birth Control Review* (October 1921): 5.

<sup>123</sup> The text of *Griswold v. Connecticut*, 381 U.S. 479 (1965) can be found at: <https://supreme.justia.com/cases/federal/us/381/479/#tab-opinion-1945663>; The text of *Eisenstadt v. Baird*, 405 U.S. 438 (1972) can be found at:

<https://supreme.justia.com/cases/federal/us/405/438/#tab-opinion-1949625>.

<sup>124</sup> Kaplan, *The Story of Jane*, xii.

<sup>125</sup> *Ibid.*, 21.

<sup>126</sup> Roberts, *Killing the Black Body*, 101; Padilla, "Chicanas and Abortion," 121.

<sup>127</sup> Kaplan, *The Story of Jane*, 280; 62-65.

<sup>128</sup> Petchesky, *Abortion and Woman's Choice*, 115.

<sup>129</sup> *Ibid.*, 251.

<sup>130</sup> Kaplan, *The Story of Jane*, 85, 93.

<sup>131</sup> Reagan, *When Abortion Was a Crime*, 24.

<sup>132</sup> "Prevention or Abortion, Which?" *Birth Control Review* 7 (May 1923): 127.

<sup>133</sup> For more information about speak outs and the Redstockings, see: Tasha N. Dubriwny, "Consciousness-Raising as Collective Rhetoric: The Articulation of Experience in the Redstockings' Abortion Speak-Out of 1969," *Quarterly Journal of Speech* 91, no. 4 (2005): 395-422; For information about contemporary pro-choice groups who use narrative as a primary rhetorical strategy, see: "Shout Your Abortion," *ShoutYourAbortion*, 2019, <https://shoutyourabortion.com/>; "Abortion

Access,” *AdvocatesForYouth*, 2019, <https://advocatesforyouth.org/issue/abortion-access/>.

<sup>134</sup> The LA Director of Zero Population Growth (ZPG) Elaine Stansfield condemned documents that failed to mention “pregnancy culture.” See: Elaine Stansfield, “Testimony at White House Hearings on Family, Los Angeles,” December 13, 1979, Box 3, Folder: Immigration 1979-1980, ZPG Records, Special Collections, California State University, Northridge, CA.; Federal policy discussed in: Gutiérrez, *Fertile Matters*, 91.

<sup>135</sup> Essays from the Conference are compiled here: Kingsley Davis and Fredrick Styles, *California’s Twenty Million: Research Contributions to Population Policy* (Westport, CT: Greenwood Press, 1971).

<sup>136</sup> Schoen, *Choice and Coercion*, 12.

<sup>137</sup> Quotes from Kenneth L. Roberts’ newspaper article to the *Saturday Evening Post* defending eugenics. Kenneth L. Roberts, “Wet and Other Mexicans, *Saturday Evening Post*, February 4, 1928, 10-11.

<sup>138</sup> E.S. Gosney and Paul B. Popenoe, *Sterilization for Human Betterment: A Summary of Results of 6,000 Operations in California, 1909-1929* (New York, Macmillan, 1929), viii.

<sup>139</sup> Natalie Lira and Alexandra Stern, “Mexican Americans and Eugenic Sterilization: Resisting Reproductive Injustice in California, 1920–1950,” *Aztlán: A Journal of Chicano Studies* 39, no.2 (2014): 9-34.

<sup>140</sup> *Roe v. Wade*, 113.

<sup>141</sup> Kaplan, *The Story of Jane*, xiii.

- <sup>142</sup> *Roe v. Wade*, 112.
- <sup>143</sup> Kaplan, *The Story of Jane*, 275.
- <sup>144</sup> Petchesky, *Abortion and Woman's Choice*, 131.
- <sup>145</sup> Robin Marty and Jessica Mason Pieklo, *Crow After Roe: How "Separate but Equal" has Become the New Standard in Women's Health and How We Can Change That* (Brooklyn: IG Publishing, 2013), 15.
- <sup>146</sup> Cristina Page, *How the Pro-Choice Movement Saved America: Freedom, Politics, and the War on Sex* (New York: Basic Books, 2006), 151.
- <sup>147</sup> House Judiciary Resolution 796. "A Joint Resolution Proposing an Amendment to the Constitution of the United States Guaranteeing the Right of Life to the Unborn," 94<sup>th</sup> Congress. (1976).
- <sup>148</sup> *After Tiller*. Film. Directed by Lana Wilson and Martha Shane. September 20. New York City: Ro\*co Films International, 2013.
- <sup>149</sup> Robin Marty, "Handbook for a Post-Roe America Book Talk," Loyalty Books in Washington D.C., January 18, 2019.
- <sup>150</sup> Marty and Pieklo, *Crow After Roe*, 14.
- <sup>151</sup> B. Jessie Hill, "Dangerous Terrain: Mapping the Female Body in *Gonzales v. Carhart*," *Columbia Journal of Gender and Law* 19, no. 3 (2010): 649-674, 649.
- <sup>152</sup> *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992), 837.
- <sup>153</sup> Mary Ziegler, "Opinion: Abortion Opponents Think They're Winning. Have They Set Themselves Up to Fail?" *New York Times*, May 15, 2019, <https://www.nytimes.com/2019/05/15/opinion/alabama-abortion-supreme-court.html>.

- <sup>154</sup> Rebecca Chalker and Carol Downer, *A Woman's Book of Choices: Abortion, Menstrual Extraction, RU-486* (New York: Four Walls Eight Windows, 1992).
- <sup>155</sup> Molly Redden, "After Wave of Anti-Abortion Laws, US Sees Signs of Women Taking Drastic Measures." *The Guardian*, June 1, 2016, <https://www.theguardian.com/world/2016/jun/01/anti-abortion-laws-legislation-clinics-dangerous-methods>.
- <sup>156</sup> "Prop. 187 Approved in California," *Migration News* 11, December 1994, <https://migration.ucdavis.edu/mn/more.php?id=492>.
- <sup>157</sup> Gutiérrez, *Fertile Matters*, 4.
- <sup>158</sup> Pete Wilson, "Drowning in a Flood of Immigrants," *Orlando Sentinel*, August 29, 1993, sec. G, p. 6.
- <sup>159</sup> Agency for Healthcare Research and Quality (AHRQ), "Women's Health Care in the United States: Selected Findings from the 2004 National Healthcare Quality and Disparities Reports," Publication No. 5-P021 (Rockville, MD: AHRQ, 2005).
- <sup>160</sup> Donald J. Trump, "Donald J. Trump Statement Regarding Abortion," *Donald Trump*, March 30, 2016, <https://www.donaldjtrump.com/press-releases/donald-j.-trump-statement-regarding-abortion>.
- <sup>161</sup> Mary Ziegler, "Some Form of Punishment: Penalizing Women for Abortion," *William and Mary Bill of Rights Journal* 26, no. 3 (2018): 735-788.
- <sup>162</sup> Loretta Ross and Rickie Solinger, *Reproductive Justice: An Introduction* (Berkeley: University of California Press, 2017), 165.
- <sup>163</sup> Hernández, *Migrating to Prison*, 73.

- <sup>164</sup> Matthew Connelly, “Why We May Never Learn the Truth About ICE,” *New York Times*, February 4, 2020, <https://www.nytimes.com/2020/02/04/opinion/archives-document-destruction.html>.
- <sup>165</sup> Aris Folley, “Pregnant Detainees Say They Were Denied Adequate Medical Care,” *The Hill*, July 9, 2018, <https://thehill.com/blogs/blog-briefing-room/news/396156-pregnant-detainees-say-they-were-denied-adequate-medical-care>.
- <sup>166</sup> Hernández, *Migrating to Prison*, 13.
- <sup>167</sup> Stormer, *Sign of Pathology*, 2.
- <sup>168</sup> Celeste Condit, *Decoding Abortion Rhetoric: Communicating Social Change* (Urbana: University of Illinois Press, 1990), 1.
- <sup>169</sup> Kaplan, *The Story of Jane*, 21.
- <sup>170</sup> Petchesky, “Fetal Images,” 277.
- <sup>171</sup> Dawn E. Johnsen, “The Creation of Fetal Rights: Conflicts with Women's Constitutional Rights to Liberty, Privacy, and Equal Protection,” *Yale Law Journal* 95, no. 3 (1986): 599-625, 604.
- <sup>172</sup> Erin Durkin and Max Benwell, “These 25 Republicans – All White Men – Just Voted to Ban Abortion in Alabama,” *The Guardian*, May 14, 2019, <https://www.theguardian.com/us-news/2019/may/14/alabama-abortion-ban-white-men-republicans>.
- <sup>173</sup> Kaplan, *The Story of Jane*, 4.
- <sup>174</sup> Linda Kerber, “The Republican Mother: Women and the Enlightenment—An American Perspective,” *American Quarterly* 28, no. 2 (1976): 187-205, 202.

- <sup>175</sup> Lauren Berlant, *The Queen of America Goes to Washington City* (Durham: Duke University Press, 1997), 97.
- <sup>176</sup> Berlant, *The Queen of America*, 98.
- <sup>177</sup> Sanger, *About Abortion*, 4-8.
- <sup>178</sup> *Planned Parenthood v. Casey*, 837.
- <sup>179</sup> Natalie Fixmer-Oraiz, *Homeland Maternity: US Security Culture and the New Reproductive Regime* (Urbana: University of Illinois Press, 2019).
- <sup>180</sup> Cristina Beltrán, *Cruelty as Citizenship: How Migrant Suffering Sustains White Democracy* (Minneapolis: University of Minnesota Press, 2020), 1.
- <sup>181</sup> Beltrán, *Cruelty as Citizenship*, 4.
- <sup>182</sup> Marisa Abrajano and Zoltan Hajnal, *White Backlash: Immigration, Race, and American Politics* (Princeton, NJ: Princeton University Press, 2017), 202.
- <sup>183</sup> Beltrán, *Cruelty as Citizenship*, 8-9.
- <sup>184</sup> Beltrán, *Cruelty as Citizenship*, 10.
- <sup>185</sup> Adam Serwer, *The Cruelty is the Point: The Past, Present, and Future of Trump's America* (New York: Random House Publishing, 2021), 4-5.
- <sup>186</sup> Doug McAdam, "Putting Donald Trump in Historical Perspective: Racial Politics and Social Movements from the 1960s to Today," *The Resistance: The Dawn of the Anti-Trump Opposition Movement*, eds. David S. Meyer and Sidney Tarrow (New York: Oxford University Press, 2019), 27.
- <sup>187</sup> Russ Bynum, "At RNC, GOP Echoes Racial Code of Nixon's 1968 Campaign," *AP News*, August 27, 2020, <https://apnews.com/article/f09ab43bd4232894b0e041f1a5d97f53>.

- <sup>188</sup> Angie Maxwell and Todd Shields, *The Long Southern Strategy: How Chasing White Voters in the South Changed American Politics* (New York: Oxford University Press, 2019), 6.
- <sup>189</sup> McAdam, “Putting Donald Trump in Historical Perspective,” 37-39.
- <sup>190</sup> Christopher S. Parker and Matt Barreto, *Change They Can’t Believe In: The Tea Party and Reactionary Politics in Contemporary America* (Princeton, NJ: Princeton University Press, 2013).
- <sup>191</sup> McAdam, “Putting Donald Trump in Historical Perspective,” 40.
- <sup>192</sup> Corey Robin, *The Reactionary Mind: Conservatism From Edmund Burke to Donald Trump*, 2<sup>nd</sup> edition (New York: Oxford University Press, 2018), 241.
- <sup>193</sup> Reagan uttered the phrase in this acceptance speech for the Republican nomination in 1980. See: Ronald Reagan, “Acceptance of the Republican Nomination for President,” *PBS*, July 17, 1980, <https://www.pbs.org/wgbh/americanexperience/features/acceptance-republican-nomination-president/>.
- <sup>194</sup> Ashley Jardina, *White Identity Politics* (New York: Cambridge University Press, 2019), 230.
- <sup>195</sup> Robin, *The Reactionary Mind*, 241.
- <sup>196</sup> Beltrán, *Cruelty as Citizenship*, 10.
- <sup>197</sup> Serwer, *The Cruelty is the Point*, xix.
- <sup>198</sup> Chris Zepeda-Millán and Sophia J. Wallace, “Mobilizing for Immigrant and Latino Rights under Trump,” *The Resistance: The Dawn of the Anti-Trump*

*Opposition Movement*, eds. David S. Meyer and Sidney Tarrow (New York: Oxford University Press, 2019), 92.

<sup>199</sup> Zepeda-Millán and Wallace, “Mobilizing for Immigrant and Latino Rights under Trump,” 95.

<sup>200</sup> Fabiola Santiago, “The Big Accomplishment of Trump’s First 100 Days? Terrorizing Undocumented Immigrants,” *Miami Herald*, April 26, 2017, <http://www.miamiherald.com/news/local/news-columns-blogs/fabiola-santiago/article146744789.html>.

<sup>201</sup> Maxwell and Shields, *The Long Southern Strategy*, 8-9.

<sup>202</sup> Rachel Alicia Griffin, “Black Women’s Intellectualism and Deconstructing Donald Trump’s Toxic White Masculinity,” *Interrogating the Communicative Power of Whiteness*, eds. Dawn Marie D. McIntosh, et al. (New York: Routledge Press, 2019): 70-71.

<sup>203</sup> Maxwell and Shields, *The Long Southern Strategy*, 11.

<sup>204</sup> I do not intend to or want to speak *for* certain groups of people. I am aware of the politics and potential problems of being a white woman studying the reproductive oppression of women of color in the United States. I did not want to be the “white savior” or appear as a “white feminist” that knows *more* about the lived reality of people of color. I realized I had a special expertise with abortion politics, wonderful advisors, university resources, and the critical training to hopefully bring a helpful perspective to rhetoric about reproductive injustices. My hope was to help connect the contemporary moment to centuries of reproductive coercion and oppression in the United States, especially for migrant women. I highlight a portion of Brown women

activists' work, while trying to ensure that I was not speaking for them. In return, I have donated to abortion funds led by women of color and one that serve migrant communities. I have shared some of their articles with my students and added works written by migrant women and Brown women to my syllabi. I also have offered my writing skills and research skills to organizations I highlight here, like the NLIRH, if I can be of service. This dissertation is a marker of attention. It will not change the world, but it can ideally spur conversations or provide more research.

<sup>205</sup> A note on terminology: In this paper, I prefer to use the term “migrants.” Not only is it an “umbrella category that can include refugees but can also include people moving to improve their lives by finding work or education, those seeking family reunion and others,” but it also best describes the migration patterns of the women I discuss. Migrants refer to those who choose to move from place to place (within their country or across borders) mostly for the purpose of improving their lives (largely for economic reasons), rather than as a result of a direct threat of persecution or death. See: United Nations High Commissioner for Refugees, “UNHCR viewpoint: ‘Refugee’ or ‘migrant’ – Which is right?,” *UNHCR*, July 11, 2016, <https://www.unhcr.org/news/latest/2016/7/55df0e556/unhcr-viewpoint-refugee-migrant-right.html>. According to *International Rescue Committee*, a non-profit specializing in aid for humanitarian crises, immigrants typically make a conscious decision to move from one place to another, which may be the case for migrants, but not necessarily. The organization also notes that many immigrants undergo an extensive vetting process to move to a new country and become lawful permanent residents and eventually citizens. See: *International Rescue Committee*, “Migrants,

Asylum Seekers, Refugees and Immigrants: What’s the Difference?,” *IRC*, December 11, 2018, <https://www.rescue.org/article/migrants-asylum-seekers-refugees-and-immigrants-whats-difference>. “Immigrant” has also become very political charged, as the Trump administration commonly associates immigrants with derogatory rhetoric that labels them “illegals” or “aliens.” See: Mihir Zaveri, “This Lawmaker Wants to Remove the Words ‘Illegal Alien’ From the Law,” *New York Times*, February 13, 2020, <https://www.nytimes.com/2020/02/13/us/politics/colorado-illegal-immigrants.html>. Because of these reasons, “migrant” is most appropriate for this project. Some refugees, those who cannot safely return to their home country for fear of persecution because of their race, religion, nationality, political opinion or membership in a particular social group, are also included in my use of “migrant women.” See: United Nations High Commissioner for Refugees, “UNHCR viewpoint: ‘Refugee’ or ‘migrant’ – Which is right?,” *UNHCR*, July 11, 2016, <https://www.unhcr.org/news/latest/2016/7/55df0e556/unhcr-viewpoint-refugee-migrant-right.html>. This is because asylum-seekers and refugees are thrown into detention centers while awaiting trial under the Trump administration. For more information, see: *Immigration Nation*, directed by Christina Clusiau and Shaul Schwarz (Brooklyn: Reel Peak Films, 2020), documentary film. “Latina” does appear as a term in Chapter Three. This is primarily because the reproductive justice history of Brown women often discusses the contributions of Latinas and major organizations such as the National Latina Institute for Reproductive Health also use this term. In much of the abortion activist scholarship about Brown women, “Latina” appears. I

mirror this language, but try to discern between Latinas and migrant women in the United States where I can.

<sup>206</sup> Nora Ellmann, “Immigration Detention is Dangerous for Women’s Health and Rights,” *Center for American Progress*, October 21, 2019, <https://www.americanprogress.org/issues/women/reports/2019/10/21/475997/immigration-detention-dangerous-womens-health-rights/#fn-475997-20>.

<sup>207</sup> Andrea A. Lunsford, “Rhetoric and Composition,” in *Introduction to Scholarship in Modern Languages and Literatures*, 2nd edition, ed. Joseph Gibaldi (New York: Modern Language Association, 1992): 77-100.

<sup>208</sup> Celeste Condit argues that feminist approaches to abortion rhetoric can help liberate women and can be used in the fight for gender equality. See: Condit, *Decoding Abortion Rhetoric*, 68.

<sup>209</sup> Rogers M. Smith, *Political Peoplehood: The Roles of Values, Interests, and Identities* (Chicago: University of Chicago Press, 2015), 220.

<sup>210</sup> David Zarefsky, “Four Senses of Rhetorical History,” in *Doing Rhetorical History: Concepts and Cases*, ed. Kathleen Turner (Tuscaloosa: University of Alabama Press, 1998), 29-30.

<sup>211</sup> Carly Woods, “(Im)mobile Metaphors: Toward an Intersectional Rhetorical History,” in *Standing in the Intersection: Feminist Voices, Feminist Practices in Communication Studies*, eds. Karma Chávez and Cindy Griffin (Albany: SUNY Press, 2012), 78-96.

<sup>212</sup> Stormer, *Sign of Pathology*, 4.

<sup>213</sup> Stormer, *Sign of Pathology*, 5.

<sup>214</sup> Ibid.

<sup>215</sup> Williams and Blinder, “Lawmakers Vote to Effectively Ban Abortion in Alabama.”

<sup>216</sup> Kaplan, *The Story of Jane*, xx.

<sup>217</sup> Stormer, *Sign of Pathology*, 6.

<sup>218</sup> Ibid., 76.

<sup>219</sup> Susan Sontag, *AIDS and its Metaphors* (New York: Farrar, Straus and Giroux, 1989), 16-17.

<sup>220</sup> Ibid., 96.

<sup>221</sup> Chimamanda Ngozi Adichie, “We Should All Be Feminists,” *TED Talks*, December 2012,

[https://www.ted.com/talks/chimamanda\\_ngozi\\_adichie\\_we\\_should\\_all\\_be\\_feminists?language=en](https://www.ted.com/talks/chimamanda_ngozi_adichie_we_should_all_be_feminists?language=en).

<sup>222</sup> LatCrit and CRT are often spoken of together in studies relating to migrants.

<sup>223</sup> Richard Delgado and Jean Stefancic, *Critical Race Theory: An Introduction* (New York: New York University Press, 2001), xx.

<sup>224</sup> Lindsay Pérez Huber, “Using Latina/o Critical Race Theory (LatCrit) and Racist Nativism To Explore Intersectionality in the Educational Experiences of Undocumented Chicana College Students,” *Educational Foundations* (Winter-Spring 2010): 77-96, 77.

<sup>225</sup> Daniel G. Solorzano and Dolores Delgado Bernal, “Examining Transformational Resistance Through A Critical Race and LatCrit Theory Framework,” *Urban Education* 36, no. 3 (2001): 308-342.

<sup>226</sup> Delgado and Stefancic, *Critical Race Theory*, 3.

<sup>227</sup> Whiteness here is understood as a historically and socially contingent understanding the political category of “white.” It is universalized and privileged as a social location in the United States that often goes unmarked. White supremacy refers to the racist belief that white people are the superior race and should therefore dominate in society. For these reasons, I do not capitalize “white,” but I do capitalize “Black” and “Brown.” See: Thomas K. Nakayama and Robert L. Krizek, “Whiteness: A Strategic Rhetoric,” *Quarterly Journal of Speech* 85 (1995): 291-309.

<sup>228</sup> Roberts, *Killing the Black Body*, 296.

<sup>229</sup> Skye de Saint Felix, “Practicing Pathology: The Rhetoric of Pathology in Jane Doe’s Struggle to Obtain an Abortion in Federal Immigration Custody,” *World Medical and Health Policy* 11, no. 4 (2019): 408-423.

<sup>230</sup> Davi Johnson Thornton, “Race, Risk, and Pathology in Psychiatric Culture: Disease Awareness Campaigns as Governmental Rhetoric,” *Critical Studies in Media Communication* 27 (2010): 311–35, 317.

<sup>231</sup> Smith, *Civic Ideals*, 508.

<sup>232</sup> Lisa Flores, “Introduction: Of Gendered/Racial Boundaries and Borders,” *Women’s Studies in Communication* 40, no. 4 (2017): 317-320, 317.

<sup>233</sup> Lisa Flores, “Creating Discursive Space through a Rhetoric of Difference: Chicana Feminists Craft a Homeland,” *Quarterly Journal of Speech* 82, no. 2 (1996): 142-156, 152.

<sup>234</sup> Karma Chávez, “Border (In)Securities: Normative and Differential Belonging in LGBTQ and Immigrant Rights Discourse,” *Communication and Critical/Cultural Studies* 7, no. 2 (2010): 136-155, 150.

<sup>235</sup> I reject labels of “good” and “bad” migrants and do not subscribe to arguments that say migrants need a “good reason” to come to the United States.

<sup>236</sup> Erika Lee defines xenophobia as not only individual prejudice, hatred, or fear towards foreigners or others, but also a “set of beliefs and ideas based on the premise that foreigners are threats to the nation and its people.” She argues that xenophobia is a form of racism, where racism is defined as prejudice, hatred, or fear towards certain groups based on socially constructed racial categories and hierarchies. Similarly, sexism is prejudice, hatred, or fear towards certain groups based on their biological sex or gender identity. See: Erika Lee, *America for Americans: A History of Xenophobia in the United States* (New York: Basic Books, 2019), 8-9.

<sup>237</sup> James Jasinski and Jennifer R. Mercieca explain that an instrumental approach to law examines things like whether a bill passed or was effective in a more traditional sense. A constitutive approach examines how people were invited to participate in a text and how identities were constituted. I discuss this much further in Chapter Three. See: James Jasinski & Jennifer R. Mercieca, “The Constitutive Approach to Effect and the Alien and Sedition Acts,” *Rhetoric and Public Address in the Twenty-First Century: A Handbook*, Shawn J. Parry-Giles and J. Michael Hogan, Eds, (Malden, MA: Wiley-Blackwell Press, 2010): 313-341.

Chapter One: All Pain, No Gain: Compulsory Motherhood, Abortion Exceptionalism,  
and Citizenship Denials of Pregnant Migrant Women

*“I am very concerned about the health of my baby because there are a lot of people here and many viruses, including the flu and diarrhea.”* – Ana, on being pregnant while detained at South Texas Family Residential Center (STFRC), Dilley, Texas

*“I wanted to explain to the immigration officer who processed me about my rape and show him that my fingernails were missing but he said, ‘No, don’t tell me anything. You all say the same thing.’”*—Emma, detained in the South Texas Family Residential Center (STFRC), Dilley, Texas<sup>1</sup>

*“I was told I was pregnant. I knew immediately what was best for me then, as I do now, that I am not ready to be a parent. While the government provides for most of my needs at the shelter, they have not allowed me to leave to get an abortion. Instead, they made me see a doctor that tried to convince me not to abort and to look at sonograms. People I do not even know are trying to make me change my mind. I made my decision, and that is between me and God. Through all of this I have never changed my mind. This is my life, my decision. I want a better future. I want justice.”*—Jane Doe on being denied an abortion in ORR custody<sup>2</sup>

Migrant women faced extreme reproductive control and coercion under the Trump administration. This abuse was particularly salient for pregnant women in immigration detention centers controlled by Immigration and Customs Enforcement (ICE) and the Office of Refugee Resettlement (ORR). Ana, Emma, and Jane Doe’s narratives show how migrant women were forced to give birth while detained. Not only were they denied abortion rights and access, but they were subjected to grossly inhumane conditions that threatened their own health and the future well-being of the fetus they were forced to carry. To add insult to injury, Trump and his army of surrogates worked to repeal citizenship protections for migrants and their future children. The Trump administration forced women to give birth, then immediately encouraged (or forced) them to leave the country by systematically denying them rights that would make life in America livable or attainable.<sup>3</sup>

The Trump administration created a “migrant problem” that *only* his administration was equipped to solve. In numerous interviews and tweets, Trump pathologized migrants as resource drains, criminals, and threats to the American way of life. He conjured images of dangerous criminals coming in giant “migrant caravans,” full of invaders who wanted to steal American jobs and make white people a minority.<sup>4</sup> These pathological characterizations were continually iterated in order to establish migrants’ presence in the United States as a problem in need of a solution. This solution was Donald Trump, supposedly the only man who could save America from this threat. He planned to make ICE and the ORR more powerful, deport more migrants than ever before with a Zero Tolerance policy, and block their pathways to citizenship. Trump’s policies detained more migrants than previous administrations, which justified his calls to expand the number of immigration detention centers, build a border wall, and deport migrants in mass.<sup>5</sup> The more migrants detained, the more “evidence” Trump had to argue that the country was being overtaken by dangerous floods of migrants who threatened the country’s values, workforce, and wellbeing.

Trump also detained the highest numbers of pregnant women in history to date, creating a pool of vulnerable migrant women who were isolated and powerless.<sup>6</sup> They became the perfect target for Trump’s anti-abortion policies; he could tout a pro-life moral high ground while trying to erode and block protections for migrant women and their future children. The Trump administration used migrant women’s inability to get abortions as evidence of their many “Pro-Life victories.”<sup>7</sup> Trump declared himself the “most pro-life president in history.”<sup>8</sup> He also touted that “For the first time since *Roe v. Wade*, America has a Pro-Life President, a Pro-Life Vice

President, a Pro-Life House of Representatives and 25 Pro-Life Republican State Capitals!”<sup>9</sup> This systemic overhaul left migrant women vulnerable to an anti-choice regime that worked to deplete their abortion rights at as many levels of government as possible.

The Trump administration was able to enact the anti-abortion and anti-migrant agenda that his base craved by framing migrants as a key threat to America. Trump and his conservative allies accomplished this through what I conceive as rhetorics of pathology. Rhetorical pathology marks migrant women with a spoiled identity, stigmatizing them as invaders, breeders, drains on American resources, enemies, criminals, and other negative characterizations. Rhetorical pathology Otherizes groups of people; such stigmatizations can be applied to many groups of people (i.e., the argument that both migrants and LGBTQ+ people have a spoiled identity). Other pathological characterizations are more specific. For instance, defining an entire group of people through motherhood works for migrant women, but is less applicable as a strategy for stigmatizing gay people during the AIDS crisis. Rhetorical pathology blames people with certain identity markers for the nation’s problems, often framing them as *the* reason why the nation’s values, economy, or wellbeing is collapsing. Such pathology discourse relies on a diversity of rhetorical strategies deeply rooted in U.S. political thought.

In order to strip migrant women’s rights in particular, the Trump administration used rhetorical pathology to uphold white supremacy and patriarchy and enact an anti-abortion and anti-migrant agenda. To spoil migrant women’s identity, the administration relied on the rhetorical strategies of compulsory

motherhood and abortion exceptionalism. I argue that compulsory motherhood and abortion exceptionalism are instantiations of rhetorical pathology that were used to vilify and control migrant women's reproduction. The first characteristic I discuss, compulsory motherhood, made birth obligatory for migrant women.<sup>10</sup> It made womanhood inextricable from motherhood, which reduced migrant women's primary role to reproduction. Compulsory motherhood also denounced abortion and other reproductive choices as bad for women and bad for society. Rhetorics during the Trump era mandated motherhood for pregnant migrants in order to control their reproduction, confine women's roles in society to the home and to their families, and uphold the guise that the administration was pro-life. These policies also fulfilled a white supremacist agenda that sought to control migrant presence in the United States by regulating their bodily autonomy. In what follows, I explain the ways in which compulsory motherhood upheld and encouraged pathological characterizations of migrant women as breeders and drains on American resources.

Similarly, abortion exceptionalism is another key instantiation of rhetorical pathologizations of migrant women. Abortion exceptionalism is the notion that abortion is regulated differently than other rights.<sup>11</sup> On the one hand, many pro-choice groups argue that abortion is regulated *more* severely than other rights (i.e., it has more regulations than a colonoscopy, even though an early abortion is much safer than a colonoscopy). On the other hand, many anti-choice groups argue that abortion is granted *special privileges* in the law.<sup>12</sup> Both those in favor of Jane Doe's abortion rights and those opposed used the rhetoric of abortion exceptionalism to advocate for their position. This rhetorical debate also shows how conservatives mimic progressive

rhetoric to weaken and undermine its power. How abortion is regulated is dependent on who and what types of people are accessing the right, which makes abortion and migration deeply intertwined with rhetorical pathology.<sup>13</sup> Who is allowed to have an abortion is also heavily dependent on white supremacy and the types of bodies white America wants to reproduce. Not only was abortion demonized as sinful, criminal, or negative under Trump, but migrant women who wanted to access abortions were vilified as selfish or murderous. These rhetorical characterizations shaped abortion regulations that controlled migrant women's reproduction in immigration detention centers.

In this chapter, I analyze how rhetorical pathology justified stripping migrants of their human rights, basic dignity, and bodily autonomy by tapping into white supremacist and patriarchal ideologies. I examine specifically how the Trump administration and its conservative allies relied on rhetorics of pathology to force birth onto migrant women, who were in turn given no path to citizenship. Since I am investigating the Trump administration's abuses of pregnant, migrant women, I analyze the sexist and racist tenets of rhetorical pathology that forced migrant women into birth and justified regulating abortion differently – differently than other medical procedures and differently than other constitutional rights. I consider together the ways that Trump intersected anti-abortion and anti-migrant policies to advance a disparate reality where migrants were treated as subhuman and even deemed “not people for constitutional purposes.” By forcing migrant women into birth, Trump's policies appeared “pro-life,” but as shown through his calls to repeal birthright citizenship and institutional protections, he did not care about migrant children after

they were born. Instead, these policies pathologized migrant women, which made them easier to control and perfect targets to enact his anti-abortion and anti-migrant agenda.

Many of Trump's policies empowered lower-level administrative agents or enforcement officers to intervene with migrant women's pregnancies, creating an assembly of anti-choice surrogates working to erode and block migrant women's reproductive autonomy. These policies governed the practices of ORR and ICE, but I specifically focus on the ORR since Jane Doe was detained in their custody and was subjected to the reproductive abuses by director Scott Lloyd. Anti-abortion and anti-migrant rhetorics during the Trump era appeared in Trump's presidential statements, animated congressional debates over detention center policies, and set precedents in court cases such as *Garza v. Hargan* (2018). *Garza* ultimately ruled in favor of young migrant women's right to abortion care, even if they were detained in federal custody. Yet, the dissenting opinions of then-Judge (now Justice) Brett Kavanaugh and Judge Karen Henderson raised questions about the constitutionality of migrants' abortion rights in the United States and set up challenges to the case's precedent.<sup>14</sup> Together, these texts illuminate the reproductive abuses that the Trump administration inflicted on migrant women in particular. Analyzing these texts ultimately demonstrates the power of rhetorical pathology and its ability to justify cruel and inhuman treatment to groups of people, especially the most vulnerable.

### **Immigration Detention Centers and Pregnant Migrants**

The United States has the world's largest detention system.<sup>15</sup> In a racist and xenophobic culture that fears Others, migrants are highly surveilled and subjected to

complex systems of arrest, imprisonment, and deportation. Conservative pathologization of migrants as threats to the nation allowed for stricter punishments of migrants in the name of upholding national security and protecting an innocent American public.<sup>16</sup> This is particularly dangerous because prison segregates migrants, both physically and in the public's imagination. Isolation and separation make migrants more likely to be ignored or forgotten, and if they are discussed, it is usually as a "threat that requires guards, cameras, and steel doors." The more migrants detained, the more the Trump administration could use their incarceration as "proof the threat is real." This notion falsely justified their harsh, inhumane policies under the guise of helping protect America.<sup>17</sup>

Detention is particularly harmful for pregnant women, physically and mentally. Many pro-migrant organizations argue that "pregnant women shouldn't be in detention, period," because of the abuse they face in centers.<sup>18</sup> There was a lack of information about how pregnant migrant women were treated and it was often unclear who was detained, where, and for how long. What was consistent across reports from detention centers was how detrimental detention was for migrant women's mental health. Not only did they face isolation and a lack of access to basic needs like food, comfortable shelter, and medical care, but they were also often abused physically.<sup>19</sup> Although Health and Human Services (HHS) policy was supposed to evaluate detained pregnant women weekly, reports from detention centers found that this was not the case in most facilities. In actuality, many pregnant, migrant women suffered a range of ailments, including infection, severe pain, nausea, diarrhea, dehydration, and weight loss (some women lost over 20 pounds). Women fainted, vomited blood, and

gave birth prematurely or to stillborn fetuses.<sup>20</sup>

Baseline stressors of detention, and pregnancy, were worsened by inadequate care. The outright abuse women faced was shown through the fact that the number of migrant women who had miscarriages in detention centers doubled in Trump's first two years in office.<sup>21</sup> In response to the horrific conditions migrants faced in custody, Trump tweeted dismissively, "If illegal immigrants are unhappy with the conditions in the quickly built or refitted detention centers, just tell them not to come. All problems solved!"<sup>22</sup> Even in the "pro-life culture" that the Trump administration forced onto detained pregnant women, the inadequate and inhumane treatment they received was "a sign that the system finds them unfit [to parent] and doesn't care if they stay that way." High rates of miscarriages and stillbirths implied that the administration did not believe that migrant women were "fit to be mothers or that their babies ought to be born."<sup>23</sup> This racist and sexist argument capitalized on historical notions that women of color are unfit mothers who exploit American resources and need to have their reproduction regulated. Disregard, degradation, and abuse towards Brown women was commonplace, and seemingly justified, as further punishment for those who the state deemed as future "bad mothers." This led to a complicated reality where migrant "fetuses may be neither killed, nor born alive and healthy."<sup>24</sup> These contradictions were exactly the point: make it as difficult as possible and as miserable as possible for migrant women, so they will not want to come to America (or stay here). Such contradictions are inherent to rhetorical pathology, but the hypocrisies "make sense" together because they fulfill an anti-abortion and anti-migrant agenda. The administration could invoke pseudo-

compassion for fetuses and migrant lives, but never have to actually afford them rights to ensure they are protected. This would uphold the Trump administration’s “pro-life” agenda while also appealing to white supremacy by limiting the number of migrants in the United States.

*Policies Stripping Reproductive Choice in the ORR and ICE*

The Trump administration and its conservative allies helped build anti-abortion ideologies into the framework of the immigration system through a series of policy decisions, including the restructuring of ORR’s new and extreme protocols. Any unaccompanied minor migrating to the United States from Central America who was detained at the U.S.-Mexico border was immediately placed in ORR custody, operated by HHS. Healthcare in ORR facilities was governed by the Flores Agreement (1997), which states that the government must provide or arrange for “appropriate routine medical ... care,” including “family planning services...and emergency health care services.”<sup>25</sup> Under the Obama administration, abortion was considered a part of the “medical reproductive services” that the ORR was required to provide unaccompanied children (UCs).<sup>26</sup> On March 4, 2017, Kenneth Tota, then-Acting Director of the ORR, revised the ORR policy on UCs to read: “the Director of the ORR is empowered by Congress to make all medical decisions for the unaccompanied alien child in place of the child’s parents.”<sup>27</sup> This decision placed all medical decisions for UCs under the control of one man—Scott Lloyd.

Shortly after this policy revision, Scott Lloyd was appointed director of the ORR. Lloyd had newfound power to implement a “blanket policy prohibiting abortion in all circumstances except if the person’s life is in danger.”<sup>28</sup> Openly and

strongly anti-choice, Lloyd not only removed abortion from the list of medical services that ORR officials were required to provide, but he also banned any behavior that “facilitated an abortion.” He defined “facilitating behavior” as anything that could be seen as supporting abortion or educating minors about abortion. This meant that UCs were not allowed to read medical information about abortion, see a doctor who might support abortion as a reproductive option, or receive transportation to an abortion clinic.<sup>29</sup> This revised policy empowered Lloyd and ORR staff to “wield an unconstitutional veto power over unaccompanied immigrant minors’ access to abortion,” which created a “de facto ban on abortion.”<sup>30</sup> ORR policy specifically affected young, migrant girls, but ICE policies under Trump were also repressive for adult women’s reproductive health.

Similarly, the Trump administration revised ICE policy to make abortions harder for migrant women to obtain while in custody. When ORR abuses of minors came to light, some activists argued that Jane Doe’s situation escalated primarily because she was under legal age. Many believed she would have had more rights if she would have been in ICE custody.<sup>31</sup> This argument is relatively true, but not nuanced.<sup>32</sup> The National Detention Standards (NDS), the baseline standards of care for detained migrants in ICE custody, stated that ICE will fund a woman’s abortion if “the life of the mother would be endangered by carrying a fetus to term, or in the case of rape or incest.” If a woman wanted to fund the abortion herself, ICE would “arrange for transportation” for abortion care and also provide her with access to counseling, if she chose.<sup>33</sup> The language here was more supportive of migrant abortion rights, but in practice, accessing abortion in ICE custody was just as difficult

because facilities operate by different standards. All centers must meet the baseline criteria listed in the NDS 2000, but beyond that policy, facilities may or may not abide by additional guidelines. For instance, facilities often chose to adopt (or not adopt) the Performance-Based National Detention Standards (PBNDS) 2008, PBNDS 2011, the Family Residential Standards from 2007.<sup>34</sup>

These differences are important because the NDS 2000 only stated that immigrant officers must be notified “in writing” if a migrant woman is pregnant. It did not state that she has abortion rights in custody. PBNDS 2008 stated that a detained woman has access to “pregnancy services,” without specifically mentioning abortion. Because these standards of care were so different across facilities, in 2013, Congress instructed ICE to implement the PBNDS 2011 in all facilities within a year.<sup>35</sup> Despite this directive, only 72 percent of migrants were placed in facilities with these standards by the end of 2019. If a migrant woman was lucky enough to be placed in an up-to-date facility governed by PBNDS 2011, she must first have knowledge that she was allowed an abortion in therapeutic cases.<sup>36</sup> This was already difficult given that American laws are typically foreign to migrants and perhaps confusing if there is a language barrier.

Next, a migrant woman had to *prove* that she qualified for a therapeutic abortion. Proving rape and incest is next to impossible, especially months after the fact, without much evidence, and in a new country. And lastly, if a woman elected to pay for the abortion herself, she had to have enough money to do so, and was still subjected to the laws of the state in which she is detained. Most women were detained in southern states (Texas mostly) that have very restrictive abortion laws.<sup>37</sup> Migrant

women likely would be too far along in the pregnancy to terminate in Texas even if they were granted transportation to a clinic.<sup>38</sup> In addition, a conscience clause provision was hidden deep in the appendix of the 2019 Trump budget that exempted ICE agents from their legal obligation to facilitate an abortion if it infringed on or diminished their “philosophical beliefs.”<sup>39</sup> These insurmountable circumstances help explain why ICE had not funded an abortion since 2003, despite the fact that on paper, women (in some facilities) had the right to abortion.<sup>40</sup> But even ICE’s “better” abortion policies did not prevent migrant women from being abused during their pregnancies.

The chilling effects of anti-abortion policies that targeted migrant women’s reproduction were heightened by the fact that the Trump administration detained more pregnant women than any previous administration. In 2018, Trump reversed an Obama-era policy, which stated that pregnant women should be “automatically released” from detention unless a woman was “a threat to herself or others, or was a public safety risk.” Trump’s new policy stated that pregnant women should be detained on a vague “case-by-case” basis.<sup>41</sup> Over 250 civil rights organizations strongly opposed the new policy and its ambiguity. After Trump’s policy took effect, more than 590 pregnant women were detained between December 2018 and April 2019. This was a 35 percent increase in the number of detained pregnant women in just four months.<sup>42</sup> In addition, in May 2018, Former Attorney General Jeff Sessions enacted a “Zero Tolerance” Policy on immigration that detained migrants awaiting trial, asylum seekers, and people with minor children. He said this policy would “discourage illegal migration into the United States” and reduce the “burden of

processing asylum claims.”<sup>43</sup> Together, these policies detained more pregnant, migrant women and for longer amounts of time. This is particularly dangerous because, as Nora Ellmann argues, “Ultimately, immigration detention is fundamentally incompatible with human rights and reproductive justice and is particularly disastrous for the health and rights of immigrant women and girls.”<sup>44</sup> These policies also encouraged family separation and denied migrant women access to healthcare services, especially their abortion rights. Many Brown women miscarried in custody and many of the ones who were able to carry the pregnancy to term had the babies taken from them immediately after birth and put into HHS custody.<sup>45</sup>

The Trump administration created an army of anti-abortion and anti-migrant surrogates to enact these policies, fostering an environment of abuse that deeply affected pregnant women. HHS’s senior ranks were staffed with “former activists who have built careers advancing socially conservative positions on issues like abortion, contraception, and gay, lesbian and transgender rights.” Roger Severino, the head of the Office of Civil Rights, said that this administration was “institutionalizing a change in the culture of government, beginning with HHS.”<sup>46</sup> Many significant changes in leadership and policy occurred at the agency level, largely out of public view. This was particularly dangerous because these agencies that had very little oversight directly influenced how migrants were treated and whether they received access to healthcare. Trump packed leadership positions with ideologically conservative white men, who used migrant women as pawns in creating an anti-abortion culture that reified the administration’s underlying commitments to

patriarchy and white supremacy. But creating this culture manifested as what Natalie Fixmer-Oraiz called, “egregious displays of state violence and abuse of power, lodged at the very heart of cultural struggles over gender, race, age, citizenship, immigration, and reproductive justice.”<sup>47</sup>

An important official in Trump’s mission was Lloyd, who had a deep history of anti-choice comments and activism. Not only had he advocated for punishing women for their reproductive choices, but he purposefully spread misinformation about abortion in the hopes of manipulating women who wanted abortions into carrying a pregnancy to term. In 2009, he wrote, “I suggest that the American people make a deal with women: so long as you are using the condom, pill, or patch I am providing with my money, you are going to promise not to have an abortion if the contraception fails, which it often does.”<sup>48</sup> Before becoming ORR director, Lloyd was an attorney for the Knights of Columbus, a global Catholic fraternal order that has been linked to white supremacy. While practicing law, Lloyd said women should sign a pledge that they would become ineligible for taxpayer-funded contraception if they have an abortion.<sup>49</sup> He also stated that young women only choose abortion because they are being “tricked” and “lied to.” He also argued that dispensing condoms to the public is dangerous because they do not work and in actuality, lead to more unplanned pregnancies and abortions. In addition, he believed “contraceptives are the cause of abortion” and that “you can’t be pro-life and pro-contraception.”<sup>50</sup> Given this history, it was no surprise that Lloyd inflicted his extreme anti-abortion ideology onto young, Brown women in his care. As District Judge Tanya S. Chutkan said, Lloyd was *the* ORR policy on abortion, which allowed him to exercise control over

migrant women's reproduction.<sup>51</sup>

Although abortion requests required Lloyd's direct approval, the policy aggrandizing his power and omitting abortion as part of reproductive healthcare was created by numerous (seemingly anti-choice) appointees. In Lloyd's 2017 deposition, he stated that the decision to remove abortion from the list of medical services that the ORR was required to provide was made by "kind of everybody," including other Trump appointees like Jonathan White, Kenneth Tota, and Maggie Wynne.<sup>52</sup> While Lloyd *personally* decided whether a young, migrant woman could have an abortion, ORR leadership entrenched anti-abortion ideologies into the *institutional* framework of the organization. This move appealed to both anti-choice and white supremacist supporters of the Trump administration. In this chapter, I focus on how these issues operated through the case of Jane Doe, whose abortion battle made national headlines.

#### *Background on Jane Doe and ORR policy*

In October 2017, the stories of three migrant teens who requested abortions while detained in federal custody spurred national controversy over both immigration and abortion. Jane Doe, Jane Roe, and Jane Poe were detained at the U.S.-Mexico border and immediately placed in ORR custody at a shelter in Brownsville, Texas. Jane Doe, whose story became the basis for a litany of legal cases in 2018, was eight weeks pregnant as a result of rape. She was 17 and traveling to America to flee gender-based violence and parental abuse in her home country. Doe requested a sponsor, which she was required to obtain to be released from the center, so she could get an abortion.<sup>53</sup> But Lloyd was vehemently opposed to helping Doe get an abortion.

In his 2017 deposition, he stated that undocumented minors do not have a right to abortion “because of their immigration status.”<sup>54</sup> Similarly, the Administration for Children and Families division of HHS stated, “There is no constitutional right for a pregnant minor to illegally cross the U.S. border and get an elective abortion.”<sup>55</sup> This rhetoric focused on transgressions, rather than a person’s humanity, desperate situation, or the insurmountable barriers they faced. It also sought to punish Doe just because she was a Brown, migrant woman, and they did not want her to have equal rights. It also ignored the fact that abortion is legal in the United States and that abortion laws do not have a citizenship caveat.

Lloyd continually denied Doe’s release from Brownsville because he wanted to prevent “the destruction of a human life.” Because Doe wanted an abortion, she was also denied access to a doctor who could give her reproductive options.<sup>56</sup> Not only did this violate *Roe v. Wade* (1973), but it also violated the “undue burden” clause in *Planned Parenthood v. Casey* (1992). Lloyd argued that entrapping Doe was not an undue burden on her abortion rights because she could invoke “voluntary departure” and return to her home country if she really wanted an abortion.<sup>57</sup> This argument ignored the fact that abortion is illegal in Doe’s home country so returning would only subject her to potential abuse by her parents. It also showed how Lloyd and the ORR were more concerned with controlling Doe than protecting fetal life if they were willing to let her get an abortion if she was “voluntarily deported.” The denial process lasted weeks, until October 18 when Judge Chutkan ordered the ORR to allow Doe to leave the shelter for pre-abortion counseling mandated by Texas law.<sup>58</sup>

Jane Doe's case sparked national outrage because she was subjected to new and extreme anti-abortion policies, which were later justified by Lloyd, Kavanaugh, and Henderson because Doe was an undocumented person. This justification demonstrates how white supremacy and patriarchy are co-constitutive ideologies that reinforce each other; Doe's abortion rights were curtailed because she was a woman and a migrant. Any unaccompanied minor found migrating unlawfully was placed in Lloyd's custody at the ORR for a maximum of 20 days under the Flores Agreement. Before the policy shift in March 2017, migrant women could get abortion in custody if they had funding, which Doe did. Not only were young women denied a sponsor to help facilitate their release, but they were detained about 14 days longer than the Flores Agreement permits. This greatly affected migrant women's abortion rights, which is already a time-sensitive issue because of varying gestational bans across states.<sup>59</sup> The ORR operated under the assumption that migrant women would not want an abortion if they did not know about it or did not have access to a doctor who would support their abortion rights. Although Lloyd withheld reproductive information from Brown girls, many of them still requested abortion services. In fact, from March to December 2017, at least seven young women in ORR custody requested an abortion and were initially denied.<sup>60</sup> Doe's story gained attention from activist groups like Planned Parenthood, NARAL Pro-Choice America, and the American Civil Liberties Union (ACLU).

In the next section, I argue that the story of Jane Doe was framed through rhetorics of pathology and was representative of what many young migrants faced in U.S. federal custody. ORR, ICE, and HHS leadership were indicative of a broader

culture of xenophobia, racism, and sexism that distrusted migrant women and regulated their bodies according to these ideologies. I focus on Lloyd because Judge Chutkan ruled that “ORR policy vests the power to decide the future of a UC’s pregnancy in one man: Director Lloyd.”<sup>61</sup> Chutkan stated that the policy did not allow for anyone to bypass his authority and did not require Lloyd to provide any legal justification for his decisions. Dangerously, his “decision [was] substantially controlled by—if not entirely based on—his ideological opposition to abortion.”<sup>62</sup> I also analyze Judge Kavanaugh and Judge Henderson’s dissents, which allows me to unpack the rhetorical justifications they made to deny Doe rights. I make the case that ORR’s anti-abortion policies were strengthened by white supremacy and were articulated through rhetorics of pathology, particularly through the instantiations of compulsory motherhood and abortion exceptionalism. Next, I turn to the Trump administration’s emphasis of compulsory motherhood for all pregnant UCs, which drew on gendered notions that womanhood is inextricable from motherhood and that women’s primary duty to the nation is motherhood.

### **Compulsory Motherhood and Migrant Women**

A binary understanding of gender and rigid gender roles have long equated womanhood with motherhood. Women who do not ever wish to be mothers, or who do not wish to be mothers at certain times of their life and choose options like birth control or abortion, are often seen as violating traditional gender roles. Patriarchy makes it clear that “if she will not be a mother, she cannot be a woman.”<sup>63</sup> This notion is the backbone of compulsory motherhood, the assumption that women are compelled to be mothers to fulfill their gendered obligations to the nation.

Compulsory motherhood is intimately connected to gender essentialism, the notion that gender is determined by something innate or biological and typically supports a binary understanding of gender as male/female. These discourses presume that motherhood is “natural work” for women. Framing motherhood as natural and inextricable from womanhood ensures women’s subordination.<sup>64</sup> It guarantees that women are not equal to men and shames women who are not mothers for their “selfish” or “unwomanly” decisions. Because womanhood and motherhood have been so deeply intertwined in American history, childless or childfree identities are contentious. Fixmer-Oraiz argues that because of this, disentangling the concepts of “woman” and “mother” requires “a significant rethinking of motherhood” by “confronting longstanding cultural beliefs.”<sup>65</sup> A woman who manages or suppresses her fertility can be seen as “murdering her womanhood.”<sup>66</sup> Dismantling these systems of oppression, however, was highly unlikely against the Trump party platform of pro-life values and traditional marriage.<sup>67</sup> In a 2016 campaign video for Trump, his daughter Ivanka touted that “the most important job any woman can have is being a mother.” Shortly after this video aired, Trump portrayed women who have abortions as monsters “ripping” babies out of their wombs.<sup>68</sup> This shows how anti-choice culture teaches women that they must be mothers in order to be *good* women, and those who choose abortion are negligent, violent murderers.<sup>69</sup>

Compulsory motherhood affects *all* women, but motherhood is treated differently depending on a woman’s race, class, age, immigration status, nationality, and contextual factors (such as substance abuse, whether she has had an abortion before, criminal history, etc.). In fact, as C.J. Chen argues, the construction of

“motherhood often creates the social lines between fit and unfit mothers by distinguishing women of color from white women, single women from married women, lower-class women from high-class women, [and] immigrant women from citizen women.”<sup>70</sup> Because BIPOC women have been subjected to anti-natalist policies and a deep history of forced sterilization, motherhood can be an especially empowering choice for them. But when the Trump administration *forces* motherhood on Brown migrant women, it depletes their individual autonomy and justifies greater government interference into their decisions. Not only is mandatory motherhood weaponized to control all women, but here, we see how Trump and his surrogates used motherhood as a justification for denying rights to migrants and deepening commitments to white supremacy.

As such, compulsory motherhood plays into stereotypes that migrant women come to America solely to give birth and “cheat the system.” It assumes that since all women will be mothers, migrant women will also reproduce, but at “dangerously” high rates that are cause for national concern and threaten white supremacist hegemony. For instance, a 2006 *New York Times* story found that migrant women were coming to Kansas for meatpacking jobs so they could work for \$15 an hour and send money to their families. But because they were women, the assumption was that they were coming here pregnant, or in hopes of becoming pregnant, in order to give birth on American soil. Migrant rights advocates explained that “few women come to the United States expressly to have babies, collect benefits and visit the emergency room,” but this fact was overshadowed by pathological rhetoric that viewed migrant women as always potentially pregnant. Instead, their presence justified an “increased

concern” over the cost of births for hospital resources and social services like schooling.<sup>71</sup> This shows how mandatory motherhood particularly detracts migrant women because lawmakers fear “what ordinary people will do if their behavior is not regulated.”<sup>72</sup> And since they were seen as inevitable mothers who will bring more migrants to the United States, their reproduction must be more heavily regulated.

Rhetorics during the Trump era demonized migrants for burdening the state, while also refusing to let even *teenage* girls get an abortion. In recent decades, moral and cultural panic over teenage pregnancy supports an overarching message that “mothering involves a level of hardship and sacrifice that teens are ill equipped to manage or meet.”<sup>73</sup> The expectations and obligations of motherhood are intensifying in general, but teenage moms are seen as particularly unqualified and unprepared to parent. Teenage pregnancy is often discussed as a crisis that burdens all of society. Because typical “teenage behavior” is framed as unacceptable behavior for a parent, third parties such as the state or the girl’s parents are assumed to have to step in and help with the parenting responsibilities. “Good mothers” are supposed to live by the notion that their primary duties are to their children. But because teenage motherhood is seen as a “crisis without end,”<sup>74</sup> “good mothers” and “teens” are considered “mutually exclusive identity categories.”<sup>75</sup>

Despite these crises, the Trump administration forced teenage migrants into motherhood under the guise of upholding pro-life values. This is in part because teenage girls and poor women are used by the state as “vehicles for rehabilitating traditional power relations.”<sup>76</sup> Because these Brown women and girls were in vulnerable positions, they were seen as having the ideal pregnant body. They

represent the pre-*Roe* woman; they are “reproductively resourceless, choiceless, powerless, and dependent on the decisions” of authorities.<sup>77</sup> Vulnerable women who can be more easily controlled have a subjectivity that is ripe for the state to impose its will upon, especially by an administration that used migrant women as pawns in undoing the more progressive, ideologically liberal agenda of their predecessor. Being Brown, fertile, poor, and pregnant therefore constituted a “dangerous status,” because this identity was attractive to power-hungry politicians who wanted to make large cultural shifts during their administration and used young migrant women to enact this agenda.<sup>78</sup>

### *Compelling Motherhood*

Compulsory motherhood adopts the language of mother and child, not woman (or UC) and fetus, in order to describe women as always already mothers. In many emails, staff memos, and interviews, Lloyd exclusively referred to Doe’s previsible fetus as a child. He argued that the “child has a fighting chance of survival if born” and belittled Doe’s concerns about her mental health if she were to continue the pregnancy by saying that the “child” is the “one who is destroyed.”<sup>79</sup> Lloyd argued that Doe was not the only “child in [their] care”—referring to Doe’s fetus—as a justification for why he was so invested in overseeing Doe’s entire abortion process.<sup>80</sup> Doe was often referred to as “the mother,” instead of the girl, woman, UC, or other more accurate terms. In Lloyd’s deposition, he said he supported life-affirming options for “mother and child”<sup>81</sup> and denied the argument that prohibiting abortion access was violent towards “the mother.”<sup>82</sup> Doe’s identity was secondary to the “child,” who Lloyd expressed grave concern for. This is common in “pro-life”

discourses that accentuate and elevate the fetus over the woman's life. The notion that all women should be mothers upholds the notion that "no amount of maternal sacrifice is enough."<sup>83</sup> Here, we see Doe's clear pleas that she would self-harm or attempt suicide if she was denied an abortion deemed irrelevant and belittled. Lloyd's rhetoric that equated abortion with the "destruction of a human life," was the epitome of pro-fetus, anti-woman discourse.<sup>84</sup> In stark contrast to Doe who was described as "sad" and "obnoxious" in ORR staff correspondence, the "child" was described as a "fighter" and someone in need of a "chance."<sup>85</sup> As typical of many anti-choice discourses, the rhetoric in this case forced a comparison between a negligent woman and an innocent fetus to justify anti-choice policies. Comparisons also give way to making a choice between two options, which forces people to either side with the bad woman or the pure future child.

Compulsory motherhood obliges women into motherhood by demonizing abortion as a "violent" choice. Because women are supposed to be mothers, the choice not to be a mother (or to choose abortion) is traumatic and violent for women. Lloyd continually iterated the "abortion as violence" frame to shame Doe out of wanting an abortion. He described abortion as "an act of violence against an innocent human life" that "destroys a child."<sup>86</sup> Lloyd used this framing to support his anti-abortion policies, arguing that the ORR "cannot be a place of refuge while [they] are at the same time a place of violence."<sup>87</sup> The "abortion as violence" frame distorted the fact that it is often more traumatizing for women to be denied an abortion than it is to allow them access to healthcare options. Lloyd recognized this fact when he wrote in an internal memo that "some would suggest that, by declining to assist in the

abortion, we are in some way engaging in a form of violence against the mother, as in the notion that ORR is forcing her to carry her pregnancy to term.” Yet, Lloyd claimed that forced pregnancy was the less violent and more human option. This is because to him, Doe was using violence (abortion) to solve violence (her sexual assault).<sup>88</sup>

Alleged violence against the unborn was frequently discussed by ORR officials as more harmful, severe, and serious than Doe’s comments about her plans to self-harm if she was denied abortion care.<sup>89</sup> Amardo Rodriguez explains that violence occurs when people use “rhetorical, material, ideological, and legal devices” to unilaterally impose their will.<sup>90</sup> Based on this definition, Lloyd enacted violence upon Doe, while hypocritically protesting the “violence” of abortion. As I elaborate later in this chapter, it is terribly cruel (and ironic) that a “system that uses the tools of symbolic and material violence to compel” certain emotions in women (competency, vulnerability, maturity, etc.), then deems those emotions as inauthentic and merely performative.<sup>91</sup> For Doe, she had to appear distressed in order to be granted an abortion, but she also was punished for those emotions and vilified as a violent girl looking for an easy way out of her problems. The rhetorical pathologizations of both women and abortion as violent helped justify the ORR’s decision to remove abortion from the list of medical services that they were legally required to provide.

Similarly, motherhood transforms women’s bodies from private, intimate spaces to sites of public interest. Pregnant bodies become public bodies, which justifies outside interference into their bodies and their decisions. Lauren Berlant argues that in a pro-life, anti-woman nation, a woman’s pregnancy “judicially and

morally compel[s]” her to relinquish her right to privacy in order to protect state interests in future citizens.<sup>92</sup> This anti-woman perspective is shown through many of Lloyd’s controlling behaviors. Doe (and any other pregnant detained minor) was hyper-surveilled in ORR custody. Lloyd not only kept a detailed spreadsheet tracking the menstrual cycles of each young migrant woman in ORR custody, but he also personally counseled pregnant minors about their plans for the fetus. If a pregnant minor was set to be released from ORR custody, Lloyd’s directives required her to be counseled by him about her pregnancy before she could be discharged. This was a clear act of intimidation to meet Brown women face-to-face and question their decisions, but Lloyd defended his behavior because it was “necessary to deliver [abortion] information in person.”<sup>93</sup> Lloyd’s intimidating approach positioned him as the superior white man qualified to control Brown women. Lloyd did not personally counsel other minors in his custody—only pregnant ones. Such behaviors are especially concerning given the fact that Lloyd admitted he had no medical or psychiatric training that qualified him to act as a doctor or a counselor. Lloyd also pressured Doe into birth by forcing her to view a fetal ultrasound, a common anti-choice strategy to scare women out of abortion by showing them images of the unborn. She was asked what she planned to “name the baby” and was even forced to notify her parents of her pregnancy, even though she was fleeing their abuse.<sup>94</sup>

Forcing Doe into motherhood was also justified through rhetorical appeals to time. Abortion is, of course, a time-sensitive manner. It is harder to obtain an abortion further in the pregnancy because of gestational bans, heartbeat bans, and access to doctors capable or willing to perform the procedure. It is also more harmful to a

woman's physical and mental health to continue to force her to be pregnant.<sup>95</sup> Despite this, time was often used against Doe, arguing that she needed more time to consider her decision or to obtain an appropriate sponsor.<sup>96</sup> But time was just a guise white men used to curtail and control migrant women's reproduction. Personally blaming Doe for not having a sponsor ignores the fact that she was institutionally denied access to talk with people outside of the ORR, especially after she admitted she wanted an abortion, which made obtaining a sponsor next to impossible. In addition, Doe "did everything the law requires" but was sentenced with the "burden of extracting herself from custody," creating a complex system where the clock was running out of time for her to be within the legal window to access abortion in Texas.<sup>97</sup> Carol Sanger argues that this complex process of securing judicial bypass, parental consent, and all the other institutional cartwheels blocking pregnant minors' abortion rights is meant to punish Brown girls who have sex or attempt to access controversial rights like abortion.<sup>98</sup> While Lloyd, Henderson, and Kavanaugh asserted that Doe did not have enough time to think over her decision, this strategic move was a deliberate ploy to run out the clock on her abortion rights. Doe was sure and clear. Questioning her intelligence and maturity was not only sexist and racist, but it was an obvious attempt to trap her in so much institutional red tape that she could not escape in time to legally abort.

Henderson and Kavanaugh made rhetorical appeals to time, which implied that the already lengthy abortion process full of institutional delays, was actually rushed. Henderson argued that a "short delay" does not constitute an undue burden,<sup>99</sup> while Kavanaugh's main argument was the speed of the sponsor process. He argued

against the notion that the government “has to *immediately* allow the abortion upon the request of an unlawful immigrant minor in its custody, and cannot take time to first seek to expeditiously transfer the minor to a sponsor before the abortion occurs.”<sup>100</sup> This argument is irrelevant in the case of Doe considering the fact that she was denied the opportunity to obtain a sponsor. Kavanaugh acknowledged the variety of abortion regulations like parental consent, waiting periods, and informed consent that delay abortion. Instead of arguing that these “real-world delays of several weeks” inhibit abortion access, Kavanaugh used these delays and regulations as a justification for why adding more time to the already tedious process is not burdensome.<sup>101</sup> A “couple more weeks” appeared to care for Doe on its face, but this rhetoric worked to delay the abortion process to the point where it was too late for Doe to legally obtain one. These arguments also allowed powerful white people to control a Brown woman’s body and paternalistically determine what was best for her, an argument I discuss further in this chapter.

The Trump administration mandated motherhood for Doe and other pregnant migrants, but compulsory motherhood must also be discussed alongside Trump’s calls to block citizenship options for migrants. Rhetorical pathology operated through compulsory motherhood to define women’s primary purpose through motherhood and characterize migrant women as dangerous criminals or drains on American resources. In this next section, I discuss how motherhood can only be compulsory for migrant women if they are also systematically denied basic rights. As I will argue, for Trump, a good migrant is a deportable one. In order to preserve white America and uphold anti-abortion values of mandatory motherhood,

migrant women had to be subjected to cruel and inhumane policies that would keep them in a permanent state of deportability.

*Mandating Motherhood and Expelling the Threat*

Anti-choice groups mandated motherhood to appear pro-life, but denied citizenship and institutional protections to migrants lest they become too numerous, powerful, or threatening. Through rhetorical pathology, migrants on the southern border of the United States were seen as threats to American institutions, who must be controlled or expelled in order to preserve white patriarchy. Rhetorical pathology eliminated migrant women's independence by stripping them of bodily autonomy, separating them from their families and communities, and physically isolating them in detention centers. The Trump administration's pro-birth policies operated alongside racist, anti-migrant policies that separated families after birth, denied them pathways to citizenship, and encouraged deportation. Pregnant women had to fulfill their obligation to the patriarchy by giving birth, but then their children were institutionally excluded from any benefits this country could provide. Limiting or denying rights to migrants was part of the conservative plan to control immigration (and women). Trump rescinded policies that kept families together and described migrants as a reason America faced an immigrant "crime wave" and was "going to hell."<sup>102</sup> Blaming migrants for seemingly all of the nation's problems was a key facet of rhetorical pathology that Othered migrants by defining them as immoral criminals.<sup>103</sup> Once these harmful characterizations take on a life of their own, the rhetorical struggle to redefine a group of people according to a positive moniker becomes much harder. While Trump and his conservative allies used many rhetorics to demonize

migrants, two strategies they commonly employed were describing migrant children as expensive and dangerous, both of which justified keeping migrants in a permanent state of deportability.

Calls to repeal birthright citizenship and end protections for migrants born on American soil are not new, but they did intensify with Trump. Leo Chavez argues that “Donald Trump’s inflammatory comments and proposals ignited a firestorm on the campaign trail, in the media, and in the blogosphere;” his “presidential campaign, in particular, ratcheted upon the anchor baby issue and nativist views on immigration, in general.”<sup>104</sup> In fact, this anti-migrant stance helped “propel him to the presidency in 2016.”<sup>105</sup> Yet, there was no evidence to support Trump’s argument that repealing the 14<sup>th</sup> amendment and birthright citizenship would significantly limit undocumented migration. It would, however, have created a demographic of “stateless” children.<sup>106</sup> The practicality or reality of such policy proposals were irrelevant to a president who frequently used terms like “anchor babies,” even though they were considered offensive and derogatory, because he did not like the “political correctness” associated with the term “undocumented.”<sup>107</sup>

The possibility of becoming a burden on the state warranted heightened control and policing of migrant bodies, especially pregnant migrants who could birth future Brown, American citizens and act as “anchors” for larger families. White fears and anxieties manifested over anchor babies and birthright citizenship because these policies made deporting migrants more difficult. It also could threaten white supremacy if white people were outnumbered and disempowered by people of color.<sup>108</sup> In a white supremacist country like America, migrants were less threatening

to white power with laws that easily deport them.<sup>109</sup> Nicholas De Genova argues that the state does not actually intend or wish to deport all migrants, especially those who can provide cheap labor. Instead, it is the *possibility of deportation* that white supremacist, anti-migrant ideology finds attractive.<sup>110</sup> Deportability, not actual deportation, keeps migrants in a “vulnerable social location (regardless of their legal citizenship status) and strictly polices their behavior.”<sup>111</sup>

Similarly, the Trump administration helped make migrants dependent on the state for resources and then punished them for their dependency. Dependency is contrary to American values that often stress independence, such as conservative notions of hyper-individualism and “pulling oneself up by their bootstraps.”<sup>112</sup> Describing migrants through dependency on the state reinforces their Otherness, foreignness, and supposed failure to assimilate to American ways of life. For instance, Trump’s calls to repeal birthright citizenship made migrants more dependent and by extension, more foreign. Gregory Rodriguez argues that birthright citizenship creates “reciprocal obligations of citizenship,” which mirrors the logic of the social contract undergirding the Constitution.<sup>113</sup> The social contract helps define citizenship by creating an implicit agreement between ruler and ruled. Citizens surrender certain rights in the name of the greater/common good and for the promise of protection. In turn, citizens have a responsibility towards one another and the government assumes a level of responsibility towards citizens by providing them with protections.<sup>114</sup> Repealing birthright citizenship policies would strip migrants of the “rights and responsibilities of citizenship” embedded in the social contract and reinforce rhetoric that describes migrants primarily through dependency and exploitation of American

resources. This framing makes assimilation impossible and supports seeing undocumented people as perpetual foreigners.

The rhetoric of dependency is common in anti-migrant discourse, although it takes a myriad of forms like calling migrants “public charges,” “leeches,” or “drains on American resources.”<sup>115</sup> Judge Henderson argued against Doe’s abortion rights by appealing to conservative anxieties that Brown migrants come to America in increasingly large numbers. Giving rights to one migrant would encourage droves of “illegal aliens.” She warned, “Under my colleagues’ decision, it is difficult to imagine an alien minor anywhere in the world who will not have a constitutional right to an abortion in this country.”<sup>116</sup> What is meant to appear ominous and worrisome to white America is exactly the outcome pro-choice and pro-migrant groups want—for all migrant women to have their abortion rights recognized. Henderson also played into fears of floods of migrants abusing the American system, stating, “And under today’s decision, pregnant alien minors around the world seeking elective abortions will be on notice that they should make the trip.”<sup>117</sup> Describing pregnant migrants as burdens was particularly powerful because for migrant women, pregnancy has long been considered a “public burden” due to the dependency it implies. Lisa Sun-Hee Park explains that dependency has been defined “as a pathological disease indicative of those with such weak, moral constitution that they are unable to self-regulate and make the ‘right,’ choices.”<sup>118</sup> Not only does dependency frame women as in need of government intervention, but it also determines whether or not they, and their children and families, are deserving of rights.

The Trump administration also sought to punish pregnant migrant women

by stoking anxieties over “anchor babies.” The term “anchor babies,” is only about a decade old and is defined as an offensive, “disparaging term for a child born to a noncitizen mother in a country that grants automatic citizenship to children born on its soil, especially when the child’s birthplace is thought to have been strategically chosen to improve the mother or other relatives’ chances of securing eventual citizenship.”<sup>119</sup> The phrase, “anchor babies,” insinuates that migrant children “are little more than pawns used by the immigrant parents to get a foothold in the U.S. and eventually become citizens themselves.”<sup>120</sup> White fears over anchor babies are intertwined with the concept of birthright citizenship guaranteed in the 14<sup>th</sup> Amendment, which is based on the principle of *jus soli*, or “right to soil.” It reads, “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.”<sup>121</sup> The amendment grants citizenship to those born in the U.S., but citizenship rights are still diminished by laws and social attitudes towards certain groups of people.<sup>122</sup> Repealing birthright citizenship in hopes of curtailing the number of anchor babies played on fears that the “contamination and therefore vulnerability” of white America will be *permanent* if the pathogen is not contained or eradicated.<sup>123</sup> It also encourages severing generational and community ties among migrants. Migrants are easier to control if they are isolated, which in turn makes it easier for the Trump administration to contain “the threat.”

Moreover, Trump’s pathological characterizations of migrants tapped into fears that anchor babies and migrant children were drains on American resources and taxpayer money. He tweeted, “How crazy—7.5% of all births in the U.S. are to illegal

immigrants, over 300,000 babies per year. This must stop. Unaffordable and not right!”<sup>124</sup> Trump also appealed to his conservative base to generate support for ending birthright citizenship by saying it cost the country “billions of dollars and is very unfair to our citizens.”<sup>125</sup> The taxpayer argument was popular among conservatives and was officially written into the 2016 and 2020 Republican Party Platforms. Both documents read, “illegal immigration endangers everyone, exploits the taxpayers, and insults all who aspire to enter American legally.”<sup>126</sup> The platforms only discussed migrants in terms of labor and their influence on the economy; they were not humanized or treated as diverse people. Instead, the platforms appealed to white supremacists by advocating for English to become the official language of the United States and by denying federal funding to sanctuary cities for migrants.<sup>127</sup>

White fears and anxieties over anchor babies shaped much of Trump’s rhetoric on migrant reproduction and birthright citizenship, citing fears that migrant children will outnumber whites, take their jobs, or use their tax dollars for aid. In a 2015 campaign speech at the Orlando Sunshine Summit, Trump said, “You can’t come into the country, you’re illegal, you come down, you sit down, you have your baby, and we take care of the baby the next 85 years. . . the birthright citizenship, the anchor baby. . . it’s over, not going to happen.”<sup>128</sup> Not only was his rhetoric dehumanizing to migrant women and insulting to their birth intentions, but it also misrepresented immigration law. In order to “anchor” citizenship for one’s parents, a person must be 21, financially able to support their parents, and complete a five-year naturalization process. Even for those who enter the United States legally, this is a 26-year endeavor. Yet, Trump employed pathological rhetoric that floods of anchor

babies were being born in the United States, threatening the American workforce and bringing with them crime, guns, drugs, and rapists. Rhetorical pathology made the migrant threat appear real, and justified violence from those who wanted to see migrants punished.<sup>129</sup>

Trump's apocalyptic rhetoric was unconcerned with whether migrants were actually dependent on the state. Instead, it capitalized on the *possibility* that anchor babies would become burdensome, expensive, or a dangerous threat to the country (similar to arguments that it was the *possibility* of deportation that was attractive to Trump). He described migrant children as key actors in an alleged conspiracy to take over America, but this paranoid reality was advanced by Trump to garner support for his policy positions.<sup>130</sup> For instance, Trump stated, without evidence, that "a lot of people" do not think anchor babies are citizens, and that one day, people will realize that he "was right on the anchor babies."<sup>131</sup> Trump stoked fears that Brown women simply walk across the border with the sole purpose of giving birth by claiming, "Birthright citizenship... Where you have a baby on our land- You walk over the border, have a baby. Congratulations, the baby is now a U.S. citizen. It's—it's, frankly, ridiculous."<sup>132</sup> Framing these children as "accidental citizens," who are not real Americans and do not belong, encouraged his audience to visualize an unstoppable, invasion of Brown migrants coming to "steal" the American dream and destroy the country.<sup>133</sup> It did not matter if this threat is real—people only had to *think* these threats were real. This quality highlights how rhetorical pathology can give rise to fascists like Trump. "We can make up our own facts, our own truths, our own worlds," and many people will choose to believe pathological fears and support

policies that neutralize the threat of Others.<sup>134</sup>

The Trump administration also pathologized migrants as dangerous criminals, who would be rewarded for their crimes if given rights in America. He justified ending DACA (which he tried to end numerous times as president) by tweeting that Dreamers were criminals: “Many of the people in DACA, no longer very young, are far from angels. Some are very tough, hardened criminals.”<sup>135</sup> Characterizing migrants as dangerous, delinquent, or criminal reflected rhetorical pathology’s ability to define an entire group of people as a “community of pariahs.”<sup>136</sup> Trump also gave Democrats an ultimatum that he would rescind DACA protections unless they agreed to fund his wall between the United States and Mexico. He demanded, “No DACA without wall & END to the horrible chain migration.”<sup>137</sup> Trump’s rhetoric also shifted the blame for a broken immigration system onto Democrats by saying they tell “phony stories of sadness & grief, hoping it will help them in the elections”<sup>138</sup> and then use this pseudo-sympathy to treat “illegal immigrants better than our veterans.”<sup>139</sup> The Trump administration vilified migrant children to garner funding and support for Trump’s anti-migrant policies and border wall under the guise of protecting public safety, national security, and the integrity of our immigration system. Similarly, Judge Henderson objected to Doe’s abortion rights, in part by arguing that it “rewards lawlessness” and “erases the fundamental difference between citizenship and illegal presence.”<sup>140</sup> This showed how demagogic rhetoric that described migrants as criminals justified an “us vs. them” divide between migrants and citizens. Migrants were unworthy and citizens were worthy of rights.<sup>141</sup>

Trump and his conservative allies' rhetorical strategy of describing migrant children as pathognomonic shaped policies on women travelling to the United States. On January 24, 2020, the State Department released a rule that made it substantially more difficult for pregnant women to come to the United States, under the assumption that women were travelling solely to give birth to U.S. citizens and "cheat the system." It stated that "travel to the United States with the primary purpose of obtaining U.S. citizenship for a child by giving birth in the United States" was impermissible. The rule also empowered immigration officers to deny visas "to an alien who he or she has a reason to believe intends to travel for this purpose."<sup>142</sup> The applicant had to prove they had a "legitimate" reason to travel to America. This shift grossly empowered agents to discriminate against applicants and create their own definition of what constitutes a "reason to believe" migrants are travelling solely to give birth in the United States. In addition, it also gave credence to harmful notions of "birth tourism." Birth tourism stereotypes Brown, pregnant migrants as intentionally exploiting immigration policies, which fed into the Trump administration's argument that birth tourism "risks national security" and is "rife with criminal activity, including international crime schemes."<sup>143</sup> Policies such as these were discriminatory and medically dangerous – if a woman said she was coming to America for medical care and was pregnant, the immigration officer might deem this too suspicious. Because of this, Tom Jawetz, Vice President of Immigration Policy at the Center for American Progress, said this "rule will also put women's lives at risk" and will "almost certainly make it far harder for women, especially women of color, to come to the United States on tourist or business visas."<sup>144</sup>

Treating pregnant women differently was intertwined with abortion exceptionalism. Not only did the Trump administration target pregnant women through birth tourism policies, but they also targeted them by detaining them in the first place. Trump's repeal of the Obama policy of not detaining pregnant women removed any "special privileges" they may have had because of their special status as a pregnant person. This leads us to another contradictory argument by conservatives used to advance pathological characterizations of migrant women. On the one hand, pregnant women were denied "special protections" by being detained "just like everyone else." On the other hand, conservatives like Henderson and Kaytlin L. Roholt, attorney and legal scholar, argued that abortion rights were granted special privileges under the law. With these arguments, pregnant women were simultaneously treated the same as everyone else and better than everyone else. Such rhetorical contradictions explain how the treatment of pregnant migrants was all about control; they could argue whatever they needed as long as the end result fit their ideological agenda.

### **Abortion Exceptionalism: Special Privileges or Special Regulations?**

As an instantiation of rhetorical pathology, abortion exceptionalism was (and is) an argument mobilized by pro-choice and anti-choice groups. On the one hand, Judge Henderson argues that the en blanc panel of judges discarded "centuries of precedent and policy" by ruling in favor of abortion rights.<sup>145</sup> Roholt said *Garza v. Hargan* was the latest installment in the "troubling line of case law that expands the right to abortion and elevates it above other constitutional rights—including those actually enumerated in the Constitution." For her, this practice created two tiers of

constitutional rights, “abortion and everything else.”<sup>146</sup> On the other hand, pro-choice arguments demonstrated how abortion is a heavily regulated right, more so than other rights and medical procedures.<sup>147</sup> Especially since *Planned Parenthood v. Casey* (1992) and the rise in TRAP laws in 2010 to the present, abortion is subjected to a litany of regulations. Parental consent, the length of abortion clinic hallways, doctor admission privileges at nearby hospitals, mandatory waiting periods, mandatory ultrasounds, mandatory counseling, conscience clause exemptions for healthcare providers, criminalizing miscarriages, gestational bans, and expensive prices would suggest that abortion is regulated very heavily. As Caroline Mala Corbin suggests, the “rules are different for abortion,” but in ways that make the right inaccessible and subjected to distortions of scientific fact and disproportionate regulation.<sup>148</sup>

The strategy of anti-choice groups co-opting pro-choice arguments that abortion is regulated exceptionally is common in conservative circles. The right’s adoption of progressive rhetorical frames weakens more liberal arguments. Corey Robin explains, “conservatism adapts and adopts, often unconsciously, the language of democratic reform to the cause of hierarchy,” which he argues is inherently “conservative.”<sup>149</sup> While conservatives might resist terms like abortion exceptionalism, they still engage with the arguments “day after day” until they are influenced, “often in spite of themselves, by the very movement they oppose.” As Robin concludes, in the quest to dismantle progressive vernacular, they find their will actually “bent by the vernacular.”<sup>150</sup> What began as a strategy for pro-choice groups to argue that abortion was subjected to particularly cruel, and unique, restrictions was co-opted by conservatives to argue that Jane Doe was granted “special rights” under

the pretense that courts bend constitutional interpretation in favor of abortion rights.

Conservatives incongruously argued that abortion *is* unfairly granted special privileges in the law, and also that it *should* be granted special regulations because the practice should be eradicated. A common argument in the abortion exceptionalism debates was that this right should be regulated differently than other rights because women cannot be trusted. They cannot be trusted to know what is in their best interest or “act responsibly” about their own bodies. Counter-strategies like #BelieveWomen and #TrustWomen try to bring awareness to the fact that women’s competency and intelligence are often questioned or actively denied, in general but also in abortion contexts.<sup>151</sup> In Doe’s case, she was demonized by many officials and judges for not being a “good enough” migrant or woman. In Judge Henderson’s dissent, she questioned Doe’s motives for coming to the United States, insinuating that she migrated under false pretenses. She implied that Doe migrated solely to exploit the American system and access abortion, claiming that it is “highly likely she knew when she attempted to enter the U.S. that she was pregnant.”<sup>152</sup> She then noted that abortion is illegal in Doe’s home country, further implying that Doe was lying and trying to con the system. Similarly, Lloyd noted in a leaked email that the clinician she was eventually allowed to see described her as “obnoxious”, “sad,” and “annoying.” Because of Doe’s demeanor, Lloyd wanted to investigate the “pressures leading her to desire termination,” arguing that those pressures were affecting her mood. For him, it was wanting an abortion that was causing Doe mental distress, not the fact that she was detained and denied healthcare.<sup>153</sup> Doe’s character, demeanor, and motives were on trial. Once her case became public, it was easier to deny her

abortion rights if she could be framed as untrustworthy. Such framing is, of course, nonsensical because it stated that she was too untrustworthy to have an abortion, yet was supposedly competent enough to be a mother.<sup>154</sup> This strategy is common in “pro-life” discourses that are almost exclusively concerned with birth, not life or lives. As shown through Doe, Brown women’s reputations and wellbeing were a necessary casualty under the forced birth agenda.

Because Brown women cannot be trusted, they cannot act in their own “best interest” and therefore need (white) men to help them navigate their lives. Both Kavanaugh and Lloyd used the paternalistic “best interest” frame to deny Doe abortion rights. Paternalistic rhetoric is taking a position sympathetic to, but standing above, Others, and it manifests in holding power over others’ lives, telling them how they should act and what is best for them.<sup>155</sup> Paternalism here demonstrates the power of abortion exceptionalism; abortion is a procedure that predominately affects women but men almost solely legislate. Lloyd, the ORR, and the Department of Justice all stated that the girls asking for abortions were not “sufficiently mature” to make the decision to abort.<sup>156</sup> As mentioned above, this argument is illogical and hypocritical because it describes women as mature enough to parent, but too immature to choose abortion. Young women in particular are trapped in an impossible rhetorical situation where they must appear anxious or upset about being pregnant to courts or other officials in order to be granted an abortion. At the same time, they must perform “cool rationality and individual agency” to appear mature enough to be “trusted” with an abortion.<sup>157</sup> Brown women are caught in a double bind where they must perform maturity *and* distress.<sup>158</sup> These dual expectations were further problematized by the

fact that their healthcare was placed solely in the hands of power-hungry, anti-abortion men who had already decided that they will not grant an abortion, despite what a woman had to say about her situation. In this case, paternalistic rhetoric positioned men's authority over women's bodies, and white supremacist interests over Brown lives. White supremacy and patriarchy worked together to deny Jane Doe's abortion rights and justify control over her reproduction and her decisions.

Kavanaugh and Henderson's paternalistic rhetoric also reflected the anti-choice argument that it is a "mark of immaturity" for women to ask for an abortion immediately after learning of their pregnancies.<sup>159</sup> Kavanaugh argued that young migrant women need "more time" with their abortion decision. They need the opportunity to consult their families or obtain a sponsor to help them navigate an "undeniably difficult situation." Kavanaugh also Otherized Doe by claiming that she was different from other teens in Texas because she was in a country "foreign to her," and was "alone" "without family or friends."<sup>160</sup> Henderson stated that Doe had "no substantial connections" to the United States, which justified denying her abortion rights because she was a migrant with supposedly fewer connections to a community. The argument that Doe must have a vast network to decide what was best for her body, future, and wellbeing, is a slippery slope. If we add "having a lot of friends and family members" to the criteria for what makes someone *deserving* of abortion rights, then we have further eroded access to this already inaccessible right. Henderson and Kavanaugh mobilized Doe's "foreignness" as a warrant to further their anti-abortion ideology and white supremacist interests. Her lack of friends was merely an excuse for them to heavily regulate her abortion rights. While having a support system is

helpful for some women seeking abortion care, it is not necessary. It should not prevent them from accessing a constitutional right. In fact, because of the stigma associated with abortion, lots of women experience it on their own, regardless of their citizenship status.<sup>161</sup>

Doe was framed as isolated and confused because of her foreignness, and acting out of immaturity or distress. At the same time, young women appearing before courts must “avoid the perception that they constitute a threat to patriarchy.”<sup>162</sup> This is especially relevant when young women ask for judicial bypass or for the state to act as substitute parents. Young women must perform the role of the “good woman, victim, or nonthreatening ‘other,’” even though appearing before the court or demanding legal recognition is an act of assertion and agency that is contrary to this docile image.<sup>163</sup> The immaturity-competence double bind forced Doe to appeal to the state for recognition, but the act warranted interference from powerful (white) men into her life. Doe’s judicial bypass should have afforded her the agency to determine what actions are “in her own best interest.”<sup>164</sup> Yet, we saw conservative leaders during the Trump era argue that *they* needed to help save Doe from herself.

Paternalism regulates abortion differently than other medical procedures, which ensures that abortion discourse is often shrouded in silence. While privacy laws apply to many medical procedures, abortion stigma prevents many women from talking about their abortions or knowing where to turn for care.<sup>165</sup> For Doe, she was intentionally misinformed or disinformed about the procedure in order to persuade her to “choose life.” While it is true that Lloyd had more institutional power than Doe, his rhetoric reflected a belief that he was intellectually and morally superior to

Doe, implying that she could not be trusted to make her own medical decisions. Not only does paternalism allow for men to position themselves as authority-figures, but in this case, it significantly determined Doe's access to abortion. Lloyd's paternalistic ideology shaped whether Doe was permitted to even talk to a sponsor in order to get temporary release, and how her story became public (if it ever did).

The rhetorical strategies of paternalism and abortion exceptionalism worked together to deny Doe an abortion. As mentioned, institutional delays regulated abortion differently than other procedures in hopes that detaining her longer would force her to birth the fetus. She also was not permitted to see an appropriate doctor and missed two doctor appointments *because* she asked for an abortion. She was clearly punished according to the anti-choice logic of abortion exceptionalism that justified her suffering in the name of fetal protection. Similarly, migrant women were paternalistically preyed on in ORR custody in part because they were Brown, young, isolated, and (intentionally) uninformed or misinformed. In a leaked email to his staff in 2017, Lloyd stated that, "The UC should not be meeting with an [outside] attorney regarding her termination or otherwise pursuing judicial bypass at this point."<sup>166</sup> The ORR provided legal services through Vera, which offered legal help to minors who cross the border without their parents. Lloyd told the director of Vera's unaccompanied minors' program, Ann Mary Mulcahy, to ensure that Vera's legal team was not informing minors about abortion options. She complied, and immediately stripped references to abortion from "Know Your Rights" legal pamphlets. Staff members were reportedly instructed to refer minors who asked about abortion to other attorneys. Lloyd also threatened to deny funding to shelters that

failed to comply with his orders.<sup>167</sup> This shows how migrant women were trapped in an institutional gridlock, where they could not even *talk* to attorneys or doctors about reproductive options. Lloyd's fear-mongering and closed-door policies created an ORR culture built on "lack of transparency and accountability."<sup>168</sup> As such, many of Lloyd's directives on how to care for pregnant minors have been made confidential and were kept out of the public eye. The "long and growing waiting times" for ORR and HHS to comment on these issues also prevented the public from reviewing documents for years, some of which are still inaccessible.<sup>169</sup>

In addition, abortion exceptionalism typically involves treating abortion differently because it involves life and death and issues of personhood. Conservative claims about fetal personhood and corporate personhood create a reality where everything is a person, yet real people have their human rights stripped. As Dahlia Lithwick warns, "Turning everything and anything into a 'person' ultimately also serves to turn persons into things."<sup>170</sup> The rhetorical construction of fetal personhood makes unborn fetuses appear like living, breathing, fully-functioning people. It is often used *against* women's humanity to justify denying them bodily autonomy in order to preserve future life and future citizens. In some religious doctrines, fetal personhood makes abortion at best a sin, and at worst, murder. It also encourages punishing women for their choices and for being "bad," negligent, and promiscuous women who use abortion as a form of birth control. The murder frame makes women's choices unethical and selfish, but also criminal. Attempting to access abortion care can result in incarceration, deportation, or losing one's children.<sup>171</sup> This is, in part, because fetal personhood justifies banning abortion even in early stages of

gestation and demonizes all abortions.<sup>172</sup> Legal scholar Justin Buckley Dyer opposes abortion and discusses historical arguments that equate it to enslavement, infanticide, horror, and violence. He writes, “it is not at all easy to bring people to see the evil of creating and destroying human lives, particularly when the promise of curing disease or ending suffering or ensuring equality is held out as a justification. Still, what is at stake in some of our current bioethical debates is the creation, ownership, destruction, and private use of nascent human beings.”<sup>173</sup> Dyer argues that we should “protect the unborn from violence at the hands of those who do not recognize its humanity.”<sup>174</sup> Women are largely erased from the conversation, and the enthymeme here implies that the “violence” against the unborn is inflicted by women and/or doctors.

Women in general have their personhood come secondary to fetuses, but migrant women faced a particularly dehumanizing characterization in the case of Jane Doe, described as “not people for constitutional purposes.” Judge Henderson stated that Doe did not fall under the definition of a person. Since the Supreme Court has never ruled in favor of “alien” rights, she argues that the “alien minor” “plainly—and easily—” has no right to abortion. Lloyd also stated that Doe had no constitutional right to abortion “because of her immigration status.”<sup>175</sup> Despite these assertions, noncitizens have Fifth Amendment rights of Due Process, which protects “life, liberty, or property” under due process of law.<sup>176</sup> *Wong Wing v. United States* (1896) ruled that the definition of “person” is broad enough to include “aliens” and provide them with the “same protection under the law that a citizen is entitled to.”<sup>177</sup> Legal precedent includes Doe in the definition of person, even if anti-migrant officials did not want her to have the same rights as legal Americans.

Historical precedent grants Doe both legal rights to due process of law and medical rights under reproductive privacy. *Bellotti v. Baird* (1979) affirmed that minors have a right to reproductive privacy that could not be denied arbitrarily by the state or by their parents/guardians.<sup>178</sup> Women who are imprisoned also have the same right to abortion as free women. Laura Winterberger explains that age and circumstances may limit access to a right, but it does not eliminate the right entirely. Doe's right to abortion was circumvented systemically. Because she was not allowed to even talk to a sponsor, Judge Patricia Millet ruled that the ORR placed Doe in an impossible situation. She argued that it was illogical for the ORR to place the burden of releasing herself from custody on Doe as a first step in securing her abortion. Millet denounced the fact that Doe had to secure a sponsor in the first place because a sponsor "bears no logical relationship" to her decision to terminate. ORR barriers to abortion made it impossible for Doe to exercise the medical rights affirmed in *Bellotti*.<sup>179</sup> For Doe's supporters, she was placed in a "constitutionally untenable" situation, while her racist and anti-choice opponents argued over whether she was a person or should be granted rights in the United States as a non-citizen. Millet explained that Henderson and Kavanaugh invoked "constitutional avoidance" by either rejecting Doe's personhood, refusing to acknowledge it, or as Kavanaugh continually argued for, needing more time for the court to determine it.<sup>180</sup> The dichotomy between citizens and noncitizens was harshened by anti-choice officials who wanted to see a Brown woman's abortion rights denied. She paid the price of being dehumanized throughout the whole process and especially punished for being a young migrant seeking a controversial right in the U.S.

Abortion exceptionalism also allows lawmakers and officials to distort the realities of abortion, largely without consequence. It is rare that women regret abortion. And most research suggests that it is more harmful to a woman's mental health to deny her abortion access, than to allow her to have an abortion.<sup>181</sup> Despite this, Lloyd and Kavanaugh iterated it was not in Doe's "best interest" to be granted access to abortion, what they referred to as a "momentous life decision."<sup>182</sup> Brittany Leach explains how anti-choice people describe their policies as good for both women and fetuses.<sup>183</sup> Lloyd and Kavanaugh were paternalistically helping her by ignoring her clear wishes. Judge Millet pointed to the fact that Doe had already been granted judicial bypass, which made Doe the sole determinant of what was in her best interest.<sup>184</sup> Doe remained "unwavering" in her intent to have an abortion from the moment she learned of her pregnancy. Yet, Lloyd argued that he found information "on the internet" that women have "an increased likelihood of self-harm, suicide, that sort of thing" after an abortion. Similarly, he stated that women use abortion "as a solution to a rape," because they are unaware that having an abortion will only further traumatize them.<sup>185</sup>

Lloyd and Maggie Wynne of HHS also stopped an abortion halfway for a migrant woman in their custody, based on ideological distortions about the abortion process. Medication abortion typically requires two pills to complete the procedure and Lloyd (temporarily) blocked a minor from having her second pill. Lloyd said that steps should be taken to save the "unborn child," which is illogical considering abortion cannot be reversed, even though many anti-choice discourses claim that it can be reversed in a strategy to shock or horrify audiences.<sup>186</sup> These instances show

how paternalism and abortion exceptionalism exemplify rhetorical pathology. When abortion is vilified and migrant women are deemed incompetent, it follows that some authority-figure needs to step in to save these Brown women from themselves and to protect American values like white supremacy.

Abortion exceptionalism (and paternalism) allowed Kavanaugh and Henderson to frame abortion rights for migrants as a “new right.” This frame made the decision in *Garza* appear radical, extreme, or as a re-writing of precedent. Although Henderson directly argued that Doe had no right to abortion in the United States, she added a terse caveat in the last sentence of her dissenting saying that *Garza* “takes its place in the pantheon of abortion exceptionalism cases.”<sup>187</sup> Kavanaugh argued that if Doe does have abortion rights, it is “radically inconsistent with 40 years of Supreme Court precedent.” He said Doe’s case is a “new situation, not yet directly confronted by the Supreme Court.” For Kavanaugh, this “radical extension” of abortion jurisprudence paved the way for conservatives to argue that Doe (and young migrant women) were granted special citizenship privileges because they requested an abortion. Roholt argues that “since the Court created the abortion right, it should hardly be surprising that the Court would be willing to bend all rules to protect it.”<sup>188</sup> On the contrary, Judge Millet’s argument in the per curiam stated that no new rights were created in this case. She argued, “Surely the mere act of entry into the U.S. without documentation does not mean that an immigrant’s body is no longer his or her own.”<sup>189</sup> Millet denounced the government’s initial denial of Doe’s abortion, arguing it “simply supplant[ed] her legally authorized best interests judgment with its own categorical position against abortion—which is something not

even a parent of spouse or State could do.”<sup>190</sup> The rhetorical and institutional power to frame abortion rights as “new” because they explicitly include undocumented minors demonstrates how anti-choice officials never believed abortion rights were the law of the land or included everyone in the first place.

For those like Henderson and Roholt who believed that abortion received special, preferential treatment under the law, abortion advocates should more or less “sit down and shut up.” For instance, HHS argued that pregnant migrant women receive “better care” in detention than they otherwise would.<sup>191</sup> Leach names this practice *debilitation*, “the slowly wearing down of disposable populations through biopolitical risks.” Migrants are exposed to risk and injury, but still exist biopolitically. In this view, migrants are not actively killed, but it is fine if “systemic exposure leads to miscarriage or injury.”<sup>192</sup> Individually blaming migrants warrants systemic neglect of migrants; the state can *appear* concerned about migrants but does not have to actually help them. Such “logic” is why some pro-choice people will not refer to anti-choice people as “pro-life.” They appear to be concerned about life and fetuses, but do not support policies that sustain or improve life, or care for the fetus once it is born.

Similarly, the notion that migrants should somehow be grateful for inhumane treatment shows how the prison system is an instrument of eugenics. Rickie Solinger explains how women in prisons lack reproductive autonomy, access to resources, and are at the mercy of the state. Packing the prisons with vulnerable women creates a pool of people to inflict a “pro-certain births” agenda upon. Incarcerating certain groups of people and then denying them healthcare in the prisons upholds the eugenic

notion that controlling who reproduces and under what circumstances makes the United States a better country.<sup>193</sup> Detained individuals were actively denied rights and subjected to whatever reproductive or health outcomes the state deems profitable or best at preserving white supremacist patriarchy.

Finally, abortion exceptionalism and compulsory motherhood coalesce around understandings of the fetus. In an anti-abortion, anti-migrant administration, pregnant migrants were stuck between the competing images of the anchor baby and the fetal citizen. As discussed, fears over anchor babies frame migrant children as threats. But on the other hand, white children are described through fetal citizenship. For American citizens (and white bodies generally) the fetus is seen as always already a citizen; a fetus born within U.S. borders is an American citizen.<sup>194</sup> In one case, a woman's deportation was barred under the argument that her fetus was an American citizen.<sup>195</sup> Fetuses are positioned above women and citizens are positioned above foreigners. Leach explains that "fetal citizenship frames assign membership in nation-states prior to birth, while anti-immigrant discourses exclude immigration offspring from citizenship altogether."<sup>196</sup> Through the forced birth policies inflicted on migrant women, we saw how the Trump administration compelled motherhood to appear pro-life. We also saw how only certain births and certain babies matter—the anchor babies cannot be granted citizenship rights because they would threaten white America's supremacy. White supremacist and patriarchal anxieties allowed for abortion to be regulated differently than other procedures so migrant women could be better controlled and used to meet state objectives.

## **Conclusion: Towards a “Culture of Life”**

This chapter demonstrated how rhetorical pathology leads to disparate health outcomes, especially in terms of reproductive healthcare.<sup>197</sup> Detained migrant women were not only forced to give birth, but they were stripped of rights afforded U.S. women and protections by an administration that sought to blame migrants for America’s problems. Many detained Brown women reported that they woke up after giving birth to find that their babies had been taken from them and placed into HHS custody. This shows how the state furthers control over migrant women’s reproduction and their children once they are born by surveying and detaining them at the U.S-Mexico border, in prisons, on the streets, etc. Some children spent years in facilities dubbed “baby jail,” such as the Berks Family Residential Center in Pennsylvania. It was a 100-bed ICE facility that imprisoned migrant women and their children.<sup>198</sup> The fact that “baby jails” even existed points to the fact these “pro-life” measures were not concerned with life, only controlling Brown women’s choices. It also shows how migrant women were used as pawns in meeting state objectives. Migrant motherhood was weaponized as a site of national security and anti-choice values that also reinforced the nation’s commitments to white supremacy.

It is also important to expose ORR mistreatment of pregnant migrants to hopefully end such abuse. Yet, this case study also had the potential to set a dangerous precedent regarding abortion rights and border politics. Lloyd, Kavanaugh, and Henderson argued that undocumented persons did not have abortion rights because they were “not people for constitutional purposes.”<sup>199</sup> To them, the rights that Brown women would normally have on American soil eroded when they crossed the

border. This would make citizenship a metric for rights and threaten how all abortion rights are adjudicated across the United States. Notably, *Planned Parenthood v. Casey* (1992) and TRAP laws helped make abortion a right heavily determined by the state or area where a woman lives. Many women have to travel, often crossing state borders, in order to get an abortion. If denial of abortion rights to migrants is deemed unconstitutional, then potentially *any* border crossing to get an abortion could be criminalized.<sup>200</sup>

With *Roe v. Wade* (1973) in a vulnerable state given the fact that the Supreme Court now leans conservative, border-crossing laws would affect even more women if *Roe* was overturned. Ten states have trigger laws that would immediately ban abortion in that state if *Roe* is overturned, which would dramatically increase the number of women who need to travel out-of-state to have an abortion.<sup>201</sup> We recently saw Texas outlaw abortion at six weeks, a pre-viability ban that instituted the most restrictive anti-abortion law in the country. Pre-viability abortion bans have continually been deemed unconstitutional. The Supreme Court's refusal to hear Senate Bill 8 amounted to a nearly complete ban on abortion in Texas, because 85 to 90 percent of abortions in Texas are after six weeks.<sup>202</sup> Most women do not even know they are pregnant by six weeks. Texas is also an incredibly large state, and where most of the migrant women at the heart of this chapter were detained. The Texas case shows that *Roe* is likely to be overturned and BIPOC and migrant women will be in even more vulnerable positions, unable to access care or forced to travel long distances on expensive trips. Given this, crossing borders to access abortion will likely be at the heart of many legal debates as conservatives try to outlaw abortion

across the nation.

Doe's case also garnered support for conservative plans to create a "culture of life," specifically in Texas. Some Texas cities, the state where Doe was detained, have been declared "sanctuary cities for the unborn." In 2017, Attorney General Ken Paxton states that Texas must not become a "sanctuary city for abortions."<sup>203</sup> These rhetorical phrases play on the concept of "sanctuary cities" for migrants, a space where migrants are protected without fear of persecution or deportation. Ordinances that declare cities anti-abortion sanctuary cities, like the one passed in Lubbock, Texas in June 2021, outlaw abortions from being performed. It allows "an unborn child's mother, father, grandparents, siblings, and half siblings" to sue anyone "that procures, performs, or aids and abets an abortion" besides the pregnant woman. There are no exceptions for rape or incest.<sup>204</sup>

Conservatives have also adopted a strategy of using American exceptionalism to pathologize abortion. At the 2020 March for Life rally, Trump declared that he would make America the "pro-family, pro-life nation."<sup>205</sup> Similarly, Lloyd appealed to American values as a persuasive strategy when he argued that "every compassionate society, including our own," should be pro-life."<sup>206</sup> Conservatives commonly and publicly state their pro-life stance, but the debate over sanctuary cities for abortions, for the unborn, or for migrants, shows how they are more concerned with protecting the unborn and potential life over the needs of actual human people. Conservatives like Lloyd often protest the "violence" of abortion, but dismiss the fact that Texas has one of the worst maternal mortality rates in the industrialized world.<sup>207</sup> The growing trend to declare cities "sanctuary cities for the unborn" is a new anti-

choice tactic similar to TRAP laws; it erodes abortion rights by making the procedure inaccessible, one city at a time.<sup>208</sup>

Through the case of Jane Doe and forced birth policies towards migrants, we see how rhetorical pathology operates through instantiations of compulsory motherhood and abortion exceptionalism to vilify migrant women's reproductive choices. These rhetorics advance white supremacy and patriarchal interests through an anti-abortion and anti-migrant agenda. Mandatory motherhood punished migrants under Trump. Motherhood was the sanctioned punishment for crossing borders without authorization. The fact that they were also denied institutional protections communicated to migrants that the United States is not a safe haven. Rhetorical appeals to compulsory motherhood, abortion exceptionalism, and white supremacy created a world where conservatives could argue that migrants should be grateful to be detained and happy to have children they did not want and could not care for. Not only was this insulting, but it showed how little the Trump administration valued migrant lives.

## Notes for Chapter One

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<sup>1</sup> Ana and Emma qtd. in American Civil Liberties Union, et al., “Letter to Cameron Quinn and John Roth Re: U.S. Immigration and Customs Enforcement’s Detention and Treatment of Pregnant Women,” *American Immigration Council*, November 13, 2017, [https://www.americanimmigrationcouncil.org/sites/default/files/general\\_litigation/complaint\\_increasing\\_numbers\\_of\\_pregnant\\_women\\_facing\\_harm\\_in\\_detention.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/general_litigation/complaint_increasing_numbers_of_pregnant_women_facing_harm_in_detention.pdf).

<sup>2</sup> Doe qtd. in “Oversight of HHS and DHS Efforts to Protect Unaccompanied Alien Children from Human Trafficking and Abuse,” Hearing Before the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs, 115<sup>th</sup> Congress, 2<sup>nd</sup> sess., April 26, 2018, <https://www.govinfo.gov/content/pkg/CHRG-115shrg36157/html/CHRG-115shrg36157.htm>.

<sup>3</sup> Brittany R. Leach, “At the Borders of the Body Politic: Fetal Citizens, Pregnant Migrants, and Reproductive Injustices in Immigration Detention,” *American Political Science Review* (2021): 116-30.

<sup>4</sup> “Trump Calls Migrant Caravans “Invasion” at Campaign Rally,” *Reuters*, May 9, 2019, <https://www.reuters.com/video/watch/idOVAE6OFZ3>; Azam Ahmed, Katie Rogers, and Jeff Ernst, “How the Migrant Caravan Became a Trump Election Strategy,” *New York Times*, October 24, 2018, <https://www.nytimes.com/2018/10/24/world/americas/migrant-caravan-trump.html>.

<sup>5</sup> John Gramlich, “How Border Apprehensions, ICE Arrests and Deportations Have Changed Under Trump,” *Pew Research Center*, March 2, 2020,

<https://www.pewresearch.org/fact-tank/2020/03/02/how-border-apprehensions-ice-arrests-and-deportations-have-changed-under-trump/>.

<sup>6</sup> Maria Sacchetti, “Pregnant Immigration Detainees Spiked 52 Percent Under Trump Administration,” *Washington Post*, December 5, 2019,

[https://www.washingtonpost.com/immigration/pregnant-immigration-detainees-spiked-52-percent-under-trump-administration/2019/12/05/610ed714-16bb-11ea-8406-df3c54b3253e\\_story.html](https://www.washingtonpost.com/immigration/pregnant-immigration-detainees-spiked-52-percent-under-trump-administration/2019/12/05/610ed714-16bb-11ea-8406-df3c54b3253e_story.html).

<sup>7</sup> After the insurrection at the Capitol, Twitter banned Trump’s account. An archive of all of his tweets can be found through <https://www.thetrumparchive.com/>. Donald Trump, Twitter post, May 29, 2019, 7:40:31 AM.

<sup>8</sup> Mike Pence, Kellyanne Conway, and many other conservatives also called Trump the “most pro-life president in history.”; “Trump the most pro-life president in American history,” *YouTube*, October 10, 2020,

<https://www.youtube.com/watch?v=T0PD7GRTrew>.

<sup>9</sup> Donald Trump, Twitter post, May 22, 2018, 8:40:41 PM.

<sup>10</sup> At the National Woman’s Suffrage Association Conference in 1871, Paulina Wright Davis attacked a law that made women sexually submit to their husbands at any given time as promoting “compulsory maternity.” Davis and the Conference were discussed in: Linda Gordon, “Voluntary Motherhood; The Beginnings of Feminist Birth Control Ideas in the United States,” *Feminist Studies* 1, no.3-4 (1973): 5-22. Davis’ quote was one of the first instances on record of this term, but it has been further developed as both “compulsory maternity” and “mandatory maternity,” especially with discussions of birth control and eugenics in the 1920s. In 1974,

Biologist Garrett Hardin wrote about the concept of mandatory/compulsory motherhood as a specific result of anti-abortion propaganda and policies. See: Garrett Hardin, *Mandatory Motherhood: The True Meaning of 'Right to Life,'* (Boston, Beacon Press: 1974).

<sup>11</sup> While Carolina Marla Corbin admits she is unsure if she is the one who created the term “abortion exceptionalism,” she states she could not find it anywhere else in her research. I have adopted her understanding of abortion exceptionalism in much of my research, and continue to do so here.

<sup>12</sup> Caroline Marla Corbin, “Abortion Distortions,” *Washington and Lee Law Review* 71, no. 2 (2014): 1175-1210.

<sup>13</sup> As discussed in the introduction, access to abortion greatly depends on one’s gender, race, income, location, immigration status, language, and other barriers.

<sup>14</sup> Judge Millet wrote the concurring opinion and Judges Kavanaugh and Henderson wrote dissenting opinions in *Garza v. Hargan*. Kavanaugh was appointed to the Supreme Court by Trump in 2018. Henderson was appointed by George W. Bush in 1990, but I include her as part of the “Trump administration and his surrogates” because she has repeatedly sided with Trump and his other judicial appointees. She voted against Trump having to release his tax returns and in favor of releasing Michael Flynn. And she, of course, sided with Kavanaugh in *Garza*.

<sup>15</sup> César Cuauhtémoc García Hernández, *Migrating to Prison: America’s Obsession with Locking Up Immigrants* (New York: The New Press, 2019), 11.

<sup>16</sup> *Ibid.*, 54.

<sup>17</sup> *Ibid.*, 13.

<sup>18</sup> Cady Voge, “‘I Was Scared I’d Get Sick’: The Pregnant Migrant Women Detained by the US,” *The Guardian*, July 31, 2019, <https://www.theguardian.com/us-news/2019/jul/31/us-immigration-detention-centers-pregnant-migrant-women>.

<sup>19</sup> Nora Ellmann, “Immigration Detention is Dangerous for Women’s Health and Rights,” *Center for American Progress*, October 2019, <https://www.americanprogress.org/issues/women/reports/2019/10/21/475997/immigration-detention-dangerous-womens-health-rights/>.

<sup>20</sup> American Civil Liberties Union, et al., “Letter to Cameron Quinn and John Roth.”

<sup>21</sup> Brigitte Amiri, “Reproductive Abuse is Rampant in the Immigration Detention System,” *ACLU*, September 23, 2020, <https://www.aclu.org/news/immigrants-rights/reproductive-abuse-is-rampant-in-the-immigration-detention-system/>.

<sup>22</sup> Donald Trump, Twitter post, July 3, 2019, 4:22:30 PM.

<sup>23</sup> Rickie Solinger, *Pregnancy and Power: A History of Reproductive Politics in the United States* (New York: New York University Press, 2019), 260.

<sup>24</sup> Leach, “At the Borders of the Body Politic,” 2.

<sup>25</sup> *Jenny Lisette Flores, et al. v. Janet Reno, et al.* (1997), Stipulated Settlement Agreement Case No. CV 85-4544-RJK(Px), United States District Court, Central District of California.

<sup>26</sup> ORR official language refers to UCs as UACs, Unaccompanied Alien Children, but I do not wish to use the term “alien” in my discourse.

<sup>27</sup> Plaintiff’s Memorandum in Support of Her Application for a Temporary Restraining Order and Motion for a Preliminary Injunction, Ex. A at 2, *Garza v. Hargan*, No. 17-02122 (D.D.C. Oct. 14, 2017).

<sup>28</sup> Brigitte Amiri, “A Fourth Young Immigrant Woman Is Being Blocked by the Trump Administration from Obtaining an Abortion,” *ACLU*, January 11, 2018, <https://www.aclu.org/blog/reproductive-freedom/abortion/fourth-young-immigrant-woman-being-blocked-trump-administration>.

<sup>29</sup> Transcript of the “Videotaped Deposition of Scott Lloyd, in *Garza v. Hargan*,” *ACLU*, December 18, 2017, <https://www.aclu.org/legal-document/garza-v-hargan-scott-lloyd-deposition>, 107.

<sup>30</sup> *Garza v. Hargan*, Civil Action No. 17-cv-02 122 (TSC), *Supreme Court*, March 30, 2018, [https://www.supremecourt.gov/DocketPDF/17/17-654/42243/20180404102729398\\_00000002.pdf](https://www.supremecourt.gov/DocketPDF/17/17-654/42243/20180404102729398_00000002.pdf), 4, 7.

<sup>31</sup> Stacy Sullivan, “Second Legal Battle Over Abortion Rights for Immigrant Teens Takes Unexpected Turns,” *ACLU*, December 20, 2017, <https://www.aclu.org/blog/reproductive-freedom/abortion/second-legal-battle-over-abortion-rights-immigrant-teens-takes>.

<sup>32</sup> ICE has different standards than the ORR because it deals with legal adults and is run by the Department of Homeland Security, not HHS.

<sup>33</sup> National Detention Standards, *U.S. Immigration and Customs Enforcement*, Rev. 2019, <https://www.ice.gov/doclib/detention-standards/2019/nds2019.pdf>, 124-125.

<sup>34</sup> Ellmann, “Immigration Detention is Dangerous for Women’s Health and Rights.”

<sup>35</sup> For PBNDS 2011, see: “Performance-Based National Detention Standards 2011,” *U.S. Immigration and Customs Enforcement*, 2011, <https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf>. The 2008

is located on ICE's website at: <https://www.ice.gov/detain/detention-management/2008>. The NDS 2000 is also online at:

<https://www.ice.gov/detain/detention-management/2000>.

<sup>36</sup> National Immigration Forum, "Fact Sheet: Immigration Detention in the U.S.,"

*Immigration Forum*, January 2021, [https://immigrationforum.org/wp-content/uploads/2021/01/Immigration-Detention-Factsheet\\_FINAL.pdf](https://immigrationforum.org/wp-content/uploads/2021/01/Immigration-Detention-Factsheet_FINAL.pdf).

<sup>37</sup> Shannon Najmabadi, "Gov. Greg Abbott Signs into Law One of Nation's Strictest

Abortion Measures, Banning Procedure as Early as Six Weeks into a Pregnancy,"

*Texas Tribune*, May 19, 2021, <https://www.texastribune.org/2021/05/18/texas-heartbeat-bill-abortion-law/>.

<sup>38</sup> Ellmann, "Immigration Detention is Dangerous for Women's Health and Rights."

<sup>39</sup> Office of Donald J. Trump, "An American Budget: FY 2019 Appendix," *US*

*Government Publishing Office*, February 12, 2018,

<https://www.govinfo.gov/content/pkg/BUDGET-2019-APP/pdf/BUDGET-2019-APP.pdf>, 522.

<sup>40</sup> Emily Crockett, "House Appropriations Committee Passes Abortion Restriction for

Detained Women," *Rewire News Group*, June 12, 2014,

<https://rewirenewsgroup.com/article/2014/06/12/house-appropriations-committee-passes-abortion-restriction-detained-women/>.

<sup>41</sup> U.S. Immigration and Customs Enforcement, "Identification and Monitoring of

Pregnant Detainees," *ICE*, December 14, 2017,

[https://www.ice.gov/sites/default/files/documents/Document/2018/11032\\_3\\_Pregnant\\_Detaines.pdf](https://www.ice.gov/sites/default/files/documents/Document/2018/11032_3_Pregnant_Detaines.pdf).

- <sup>42</sup> Negar Esfandiari and Madelyn McKeague, “Crossing the Intersection of Immigration and Reproductive Justice,” *National Women’s Health Network*, May 3, 2018, <https://nwhn.org/crossing-intersection-immigration-reproductive-justice/>.
- <sup>43</sup> “The Trump Administration’s “Zero Tolerance” Immigration Enforcement Policy,” *Congressional Research Service*, 2018, <https://fas.org/sgp/crs/homsec/R45266.pdf>.
- <sup>44</sup> Ellmann, “Immigration Detention is Dangerous,” 33.
- <sup>45</sup> Tina Vasquez, “Trump Administration Separates Some Migrant Mothers From Their Newborns Before Returning Them to Detention,” *Rewire*, May 28, 2019, <https://rewirenewsgroup.com/article/2019/05/28/trump-administration-separates-pregnant-migrants-newborns-before-returning-detention/>.
- <sup>46</sup> Jeremy W. Peters, “Under Trump, an Office Meant to Help Refugees Enters the Abortion Wars,” *New York Times*, April 5, 2018, <https://www.nytimes.com/2018/04/05/us/politics/refugee-office-abortion-trump.html>.
- <sup>47</sup> Natalie Fixmer-Oraiz, *Homeland Maternity: US Security Culture and the New Reproductive Regime* (Urbana: University of Illinois Press, 2019), 142.
- <sup>48</sup> Edward Scott Lloyd, “Bailing Out Abortionists?,” *National Catholic Register*, August 28, 2009, <https://www.ncregister.com/commentaries/bailing-out-abortionists>.
- <sup>49</sup> The Knights of Columbus are a Catholic organization that has been linked to white supremacy and extreme right-wing ideologies, strongly opposing abortion, same-sex marriage, and birth control.
- <sup>50</sup> Scott Lloyd, “Facts on Abortion: Why You Can't Be Pro-Life and Pro-Contraception,” *Ethika Politika*, April 4, 2011,

<https://www.ethikapolitika.org/2011/04/04/facts-on-abortion-why-you-cant-be-pro-life-and-pro-contraception/>.

<sup>51</sup> *Garza v. Hargan*, 7.

<sup>52</sup> “Scott Lloyd Deposition,” 28.

<sup>53</sup> Tina Vasquez, “Immigrant Minor Held ‘Hostage’ in Texas Because She Wants Abortion Care,” *Rewire*, October 11, 2017,

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<sup>54</sup> “Scott Lloyd Deposition,” 67.

<sup>55</sup> “Garza v. Hargan- Complaint For Injunctive Relief and Damages,” *ACLU*, October 13, 2017, <https://www.aclu.org/legal-document/garza-v-hargan-complaint-injunctive-relief-and-damages?redirect=legal-document/doe-v-wright-complaint-injunctive-relief-and-damages>.

<sup>56</sup> “Scott Lloyd Deposition,” 114.

<sup>57</sup> Manny Fernandez, “U.S. Must Let Undocumented Teenager Get an Abortion, Appeals Court Says,” *New York Times*, October 24, 2017,

<https://www.nytimes.com/2017/10/24/us/undocumented-immigrant-abortion.html>.

<sup>58</sup> Maria Sacchetti, “U.S. Judge Orders Trump Administration to Allow Abortion For Undocumented Teen,” *Washington Post*, October 18, 2017,

[https://www.washingtonpost.com/local/immigration/judge-trump-administration-cannot-block-abortion-for-pregnant-undocumented-teen/2017/10/18/82348e08-b406-11e7-be94-fabb0f1e9ffb\\_story.html](https://www.washingtonpost.com/local/immigration/judge-trump-administration-cannot-block-abortion-for-pregnant-undocumented-teen/2017/10/18/82348e08-b406-11e7-be94-fabb0f1e9ffb_story.html).

<sup>59</sup> The procedure also becomes riskier for the woman's health the further along in the pregnancy she is when she has an abortion.

<sup>60</sup> Carter Sherman, "How the Trump Administration Tries to Stop Undocumented Teens from Getting Abortions," *Vice*, February 28, 2018, [https://news.vice.com/en\\_us/article/xw5kvz/exclusive-how-the-trump-administration-tries-to-stop-undocumented-teens-from-getting-abortions](https://news.vice.com/en_us/article/xw5kvz/exclusive-how-the-trump-administration-tries-to-stop-undocumented-teens-from-getting-abortions).

<sup>61</sup> *Garza v. Hargan*, 7.

<sup>62</sup> *Garza v. Hargan*, 24.

<sup>63</sup> Solinger, *Pregnancy and Power*, 17.

<sup>64</sup> Solinger, *Pregnancy and Power*, 17.

<sup>65</sup> Fixmer-Oraiz, *Homeland Maternity*, 155.

<sup>66</sup> Solinger, *Pregnancy and Power*, 17.

<sup>67</sup> "Republican Platform 2016," *GOP*, July 18, 2016, [https://prod-cdn-static.gop.com/media/documents/DRAFT\\_12\\_FINAL%5B1%5D-ben\\_1468872234.pdf](https://prod-cdn-static.gop.com/media/documents/DRAFT_12_FINAL%5B1%5D-ben_1468872234.pdf), 11.

<sup>68</sup> Christina Cauterucci, "Ivanka Trump Says Being a Mother Is a Woman's 'Most Important Job,'" *Slate*, October 3, 2016, <https://slate.com/human-interest/2016/10/ivanka-trump-says-being-a-mother-is-a-womans-most-important-job.html>.

<sup>69</sup> Linda C. Fentiman, *Blaming Mothers: American Law and the Risks to Children's Health* (New York: New York University Press, 2017).

<sup>70</sup> C. J. Chen, "Compulsory Motherhood Challenged and Remade in the Name of Choice: Framing the Right to Choose Under Old and New Maternalism," in *Legal*

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<sup>71</sup> Lizette Alvarez and John M. Broder, “More and More, Women Risk All to Enter U.S.,” *New York Times*, January 10, 2006,

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<sup>72</sup> Solinger, *Pregnancy and Power*, 34.

<sup>73</sup> Fixmer-Oraiz, *Homeland Maternity*, 123.

<sup>74</sup> *Ibid.*, 123.

<sup>75</sup> *Ibid.*, 125.

<sup>76</sup> Solinger, *Pregnancy and Power*, 257.

<sup>77</sup> *Ibid.*, 259.

<sup>78</sup> *Ibid.*, 265.

<sup>79</sup> Lloyd, Leaked Emails and Memos to Staff, *Office of Refugee Resettlement*, 2017, 6.

<sup>80</sup> “ORR Emails Re: Abortion Policies,” *Center for Investigative Reporting*, October 5, 2017, <https://s3.documentcloud.org/documents/4106150/20170304-ORR-Emails-Re-Abortion-Policies.pdf>.

<sup>81</sup> “Scott Lloyd Deposition,” 111.

<sup>82</sup> Lloyd, Leaked Emails and Memos to Staff, 7-8.

<sup>83</sup> Fixmer-Oraiz, *Homeland Maternity*, 125.

<sup>84</sup> “Scott Lloyd Deposition,” 114.

<sup>85</sup> “ORR Emails Re: Abortion Policies.”

- <sup>86</sup> Scott Lloyd, “Note to File,” *Office of Refugee Resettlement*, December 17, 2017, <https://www.politico.com/f/?id=00000160-7adb-dcd4-a96b-7ffbb0b10002>.
- <sup>87</sup> Lloyd, “Note to File,” 8.
- <sup>88</sup> *Ibid.*, 8.
- <sup>89</sup> “ORR Emails Re: Abortion Policies.”
- <sup>90</sup> Amardo Rodriguez, “The Discursive Limits of Modern Immigration Debates,” *Journal of Latino/Latin American Studies* 5 (2013): 33.
- <sup>91</sup> Brian S. Amsden, “Performing Maturity in the Parental Consent and Notification Judicial Bypass Procedure,” *Communication and Critical/Cultural Studies* 12 (2015): 4.
- <sup>92</sup> Lauren Berlant, *The Queen of America goes to Washington City: Essays on Sex and Citizenship* (Durham, NC: Duke University Press, 1997), 99.
- <sup>93</sup> “Exclusive interview with Trump official Scott Lloyd,” *EWTN Youtube*, October 27, 2017, [https://www.youtube.com/watch?v=\\_z6asIS3b9o](https://www.youtube.com/watch?v=_z6asIS3b9o).
- <sup>94</sup> Fixmer-Oraiz, *Homeland Maternity*, 141.
- <sup>95</sup> Lauren J. Ralph, Eleanor Bimla Schwarz, Daniel Grossman, Diana Greene Foster, “Self-reported Physical Health of Women Who Did and Did Not Terminate Pregnancy After Seeking Abortion Services,” *Annals of Internal Medicine* 171, no. 4 (2019): 238-47.
- <sup>96</sup> Kavanaugh (dissenting), 44.
- <sup>97</sup> Millet (concurring), 4-6.
- <sup>98</sup> Sanger also notes that because of parental consent and less access to healthcare as a minor, pregnant minors typically start the abortion process later in their pregnancies.

It can sometimes take weeks (or months) before minors are aware they are pregnant.

See: Carol Sanger, "Regulating Teenage Abortion in the United States: Policy and Policy," *International Journal of Law, Policy and the Family* 18 (2004): 305.

<sup>99</sup> Henderson (dissenting), 24.

<sup>100</sup> Kavanaugh (dissenting), 44.

<sup>101</sup> Kavanaugh (dissenting), 47.

<sup>102</sup> Video of Trump Interview with Bill O'Reilly, The O'Reilly Factor, *Business Insider*, August 19, 2015, <https://www.businessinsider.com/bill-oreilly-donald-trump-immigration-deport-birthright-2015-8>.

<sup>103</sup> Susan Sontag, *AIDS and its Metaphors* (New York: Farrar, Straus and Giroux, 1989), 68.

<sup>104</sup> Leo Chavez, *Anchor Babies and the Challenge of Birthright Citizenship* (Stanford: Stanford University Press, 2017), 36.

<sup>105</sup> *Ibid.*, 38.

<sup>106</sup> Chavez, *Anchor Babies*, 27.

<sup>107</sup> This is hypocritical considering Trump continually vilified Jeb Bush for using the term "anchor babies," because it was derogatory. Donald Trump, Twitter post, August 21, 2015, 9:49:56 AM, "Jeb Bush signed memo saying not to use the term "anchor babies," offensive. Now he wants to use it because I use it. Stay true to yourself!" and another post from the 25<sup>th</sup> of August at 6:49:06, "In a clumsy move to get out of his "anchor babies" dilemma, where he signed that he would not use the term and now uses it, he blamed ASIANS." On October 31, 2018 at 10:17:34 AM, Trump tweeted a different position on whether the phrase is offensive, and called

“anchor babies” a “nasty term.”; See: “Trump ‘I’ll Use the Word ‘Anchor Baby,’” ABC News, August 20, 2015, <https://abcnews.go.com/Politics/video/trump-ill-word-anchor-baby-33201519>.

<sup>108</sup> Nellie Bowles, “‘Replacement Theory,’ a Racist, Sexist Doctrine, Spreads in Far-Right Circles,” *New York Times*, March 18, 2019, <https://www.nytimes.com/2019/03/18/technology/replacement-theory.html>.

<sup>109</sup> Natalia Molina, *How Race Is Made in America: Immigration, Citizenship, and the Historical Power of Racial Scripts* (Oakland: University of California Press, 2013), 38.

<sup>110</sup> Nicholas De Genova, *Working the Boundaries: Race, Space, and "Illegality" in Mexican Chicago* (Durham: Duke University Press, 2005), 8.

<sup>111</sup> Lisa Sun-Hee Park, “Criminalizing Immigrant Mothers: Public Charge, Health Care, and Welfare Reform,” *International Journal of Sociology of the Family* 37, no. 1 (2011): 32.

<sup>112</sup> Rogers M. Smith, *Political Peoplehood: The Roles of Values, Interests, and Identities* (Chicago: University of Chicago Press, 2017), 121-122.

<sup>113</sup> Gregory Rodriguez, “Attack on 14<sup>th</sup> Amendment: It’s Wrong,” *Los Angeles Times*, August 16, 2016, <https://www.latimes.com/archives/la-xpm-2010-aug-16-la-oe-rodriguez-14th-20100816-story.html>.

<sup>114</sup> Mark Hulliung, *The Social Contract in America: From the Revolution to the Present Age* (Lawrence: University Press of Kansas, 2007).

<sup>115</sup> Erika Lee, *America for Americans: A History of Xenophobia in the United States* (New York: Basic Books, 2019), 8-9.

- <sup>116</sup> Henderson (dissenting), 20.
- <sup>117</sup> Henderson (dissenting), 27-28.
- <sup>118</sup> Park, “Criminalizing Immigrant Mothers,” 44.
- <sup>119</sup> Chavez, *Anchor Babies*, 5.
- <sup>120</sup> Alexandra Villarreal, “‘Anchor Babies’: The ‘Ludicrous’ Immigration Myth that Treats People as Pawns,” *The Guardian*, March 12, 2020, <https://www.theguardian.com/us-news/2020/mar/16/anchor-babies-the-ludicrous-immigration-myth-that-treats-people-as-pawns>.
- <sup>121</sup> U.S. Const., amend. XIV, <https://constitution.congress.gov/browse/amendment-14/>.
- <sup>122</sup> Chavez, *Anchor Babies*, 2.; Chavez examples that the 14<sup>th</sup> amendment has not always been evenly applied as Native Americans, African American enslaved people, and the children of non-white migrants have been left out for most of our history.
- <sup>123</sup> Sontag, *AIDS and Its Metaphors*, 18.
- <sup>124</sup> Donald Trump, Twitter post, August 21, 2015, 9:59:00 AM.
- <sup>125</sup> Donald Trump, Twitter post, October 31, 2018, 9:25:17 AM.
- <sup>126</sup> Very little content was changed between 2016 and 2020, in part due to the coronavirus pandemic. “Republican Platform 2016,” 25.
- <sup>127</sup> *Ibid.*, 25.
- <sup>128</sup> Donald Trump, “Donald Trump Remarks at 2015 Sunshine Summit,” *C-Span*, November 13, 2015, <https://www.c-span.org/video/?400325-10/donald-trump-remarks-2015-sunshine-summit>.
- <sup>129</sup> Villarreal, “Anchor Babies.”

- <sup>130</sup> Chavez, *Anchor Babies*, 3.
- <sup>131</sup> Nick Gass, “Trump to O’Reilly: 14th Amendment is Unconstitutional,” *Politico*, August 19, 2015, <https://www.politico.com/story/2015/08/donald-trump-bill-oreilly-interview-121515>.
- <sup>132</sup> “Trump Says He is Seriously Looking at Ending Birthright Citizenship,” *Reuters*, August 21, 2019, <https://www.reuters.com/article/us-usa-immigration-trump/trump-says-he-is-seriously-looking-at-ending-birthright-citizenship-idUSKCN1VB21B>.
- <sup>133</sup> Chavez, *Anchor Babies*, 3.
- <sup>134</sup> Rodriguez, “The Discursive Limits of Modern Immigration Debates,” 38.
- <sup>135</sup> Donald Trump, Twitter post, November 12, 2019, 6:45:28 AM.
- <sup>136</sup> Sontag, *AIDS and Its Metaphors*, 25.
- <sup>137</sup> Donald Trump, Twitter post, December 29, 2017, 8:16:11 AM.
- <sup>138</sup> *Ibid.*, June 22, 2018, 9:43:06 AM.
- <sup>139</sup> *Ibid.*, July 20, 2015, 10:25:52 AM.
- <sup>140</sup> Henderson (dissenting), 21.
- <sup>141</sup> See for more on demagogic rhetoric: Patricia Roberts-Miller, *Demagoguery and Democracy* (New York: The Experiment, 2017).
- <sup>142</sup> “Visas: Temporary Visitors for Business or Pleasure,” *National Archives: Federal Reserve*, January 24, 2020, <https://www.federalregister.gov/documents/2020/01/24/2020-01218/visas-temporary-visitors-for-business-or-pleasure>.
- <sup>143</sup> *Ibid.*, 4220.

<sup>144</sup> Qtd. in Rebecca Rainey, “Trump Administration Cracks Down on Visas for Pregnant Foreigners,” *Politico*, January 23, 2020, <https://www.politico.com/news/2020/01/23/trump-administration-cracks-down-on-birth-tourism-102713>.

<sup>145</sup> Henderson (dissenting), 36.

<sup>146</sup> Kaytlin L. Roholt, “Give Me Your Tired, Your Poor, Your Pregnant: The Jurisprudence of Abortion Exceptionalism in *Garza v. Hargan*,” *Texas A&M Law Review* 5, no. 3 (2018): 506.

<sup>147</sup> Abortion, especially in the early stages of pregnancy, is safer than common procedures like a colonoscopy and even childbirth.

<sup>148</sup> Corbin, “Abortion Distortions,” 1210.

<sup>149</sup> Corey Robin, *The Reactionary Mind: Conservatism From Edmund Burke to Donald Trump*, 2<sup>nd</sup> edition (New York: Oxford University Press, 2018), 50.

<sup>150</sup> *Ibid.*, 48.

<sup>151</sup> Trust Women and Believe Women were founded in response to Dr. Tiller’s abortion advocacy that stressed the women’s expertise. #BelieveWomen has also recirculated in the wake of #MeToo advocacy against sexual assault.

<sup>152</sup> Henderson (dissenting), 22.

<sup>153</sup> “ORR Emails Re: Abortion Policies.”

<sup>154</sup> Amsden, “Performing Maturity,” 13.

<sup>155</sup> Itzel Mayans and Moises Vaca, “The Paternalistic Argument Against Abortion,” *Hypatia* 33 (2018): 22–39.

<sup>156</sup> “Defendants’ Opposition to Plaintiff’s Motion for Temporary Restraining Order,”  
*Garza v. Hargan*, Case 1:17-cv-02122-TSC, January 12, 2018,

<https://assets.documentcloud.org/documents/4349319/1-12-18-DOJ-Response-Jane-Moe.pdf>.

<sup>157</sup> Amsden, “Performing Maturity,” 12.

<sup>158</sup> Marilyn Frye discusses “double binds” as a marker of oppression where oppressed people are stuck in damned if you do, damned if you don’t situations. See: Marilyn Frye, *The Politics of Reality* (Freedom, CA: Crossing Press, 1983).

<sup>159</sup> Amsden, “Performing Maturity,” 15.

<sup>160</sup> Kavanaugh (dissenting), 45.

<sup>161</sup> Laura F. Harris, et. al, “Perceived Stress and Emotional Social Support Among Women Who are Denied or Receive Abortions in the United States: A Prospective Cohort Study,” *BMC Women’s Health* 14 (2014): 76.

<sup>162</sup> Amsden, “Performing Maturity,” 4.

<sup>163</sup> *Ibid.*, 5.

<sup>164</sup> Millet (concurring), 15.

<sup>165</sup> Mayans and Vaca, “The Paternalistic Argument Against Abortion,” 22.

<sup>166</sup> “ORR Emails Re: Abortion Policies,” 13.

<sup>167</sup> Ann E. Marimow and Maria Sacchetti, “Immigrant Rights Group in Email Says it Was Warned Not to Mention Abortion to Teens,” *Washington Post*, February 15, 2018, [https://www.washingtonpost.com/local/immigration/attorneys-warned-not-to-mention-abortion-to-immigrant-teens-in-custody-per-email-from-legal-group/2018/02/14/cd0aecc6-0da5-11e8-8890-372e2047c935\\_story.html](https://www.washingtonpost.com/local/immigration/attorneys-warned-not-to-mention-abortion-to-immigrant-teens-in-custody-per-email-from-legal-group/2018/02/14/cd0aecc6-0da5-11e8-8890-372e2047c935_story.html).

<sup>168</sup> Patty Murray, Diane Feinstein, Robert Menendez, and Richard Blumenthal, “Letter to Eric D. Hargan,” *U.S. Senate*, October 17, 2017, [https://www.help.senate.gov/imo/media/doc/101917%20-%20Hargan%20-%20Unaccompanied%20Alien%20Children%20\(UAC\),%20Office%20of%20Refugee%20Resettlement%20\(ORR\).pdf](https://www.help.senate.gov/imo/media/doc/101917%20-%20Hargan%20-%20Unaccompanied%20Alien%20Children%20(UAC),%20Office%20of%20Refugee%20Resettlement%20(ORR).pdf).

<sup>169</sup> Campaign for Accountability, “Request for Investigation of Office of Refugee Resettlement’s Handling of Pregnant Unaccompanied Minors,” *Center for Accountability*, December 17, 2018, [https://campaignforaccountability.org/wp-content/uploads/2018/12/ORR-IG-investigation\\_Complaint\\_12-17-1812.pdf](https://campaignforaccountability.org/wp-content/uploads/2018/12/ORR-IG-investigation_Complaint_12-17-1812.pdf), 5.

<sup>170</sup> Dahlia Lithwick, “Un-People,” *Slate*, December 3, 2013, <https://slate.com/news-and-politics/2013/12/hobby-lobby-and-corporate-personhood-the-alarming-conservative-crusade-to-declare-everything-except-people-a-legal-person.html>

<sup>171</sup> For more on women’s reproductive punishments see: Jeanne Flavin, *Our Bodies, Our Crimes: The Policing of Women’s Reproduction in America* (New York: NYU Press, 2010).

<sup>172</sup> Sara Hayden, “Revitalizing the Debate between <Life> and <Choice>: The 2004 March for Women’s Lives,” *Communication and Critical/Cultural Studies* 6, no. 2 (2009): 114.

<sup>173</sup> Justin Buckley Dyer, *Slavery, Abortion, and the Politics of Constitutional Meaning* (New York: Cambridge University Press, 2013), 187.

<sup>174</sup> *Ibid.*, 163.

<sup>175</sup> “Scott Lloyd Deposition,” 67.

- <sup>176</sup> U.S. Constitution, Amendment V,  
[https://constitution.congress.gov/browse/essay/amdt5\\_4\\_1/#ALDF\\_00008394](https://constitution.congress.gov/browse/essay/amdt5_4_1/#ALDF_00008394).
- <sup>177</sup> *Wong Wing v. United States*, 163 U.S. 228 (1896), 272.
- <sup>178</sup> *Bellotti v. Baird*, 443. US 622 at 647, 648 (1979).
- <sup>179</sup> Laura Winterberger, “Obstruction of Reproductive Justice: Office of Refugee Resettlement’s Unconstitutional Abortion Policy for Minors,” *The University of the Pacific Law Review* 50, no. 3 (2019): 508.
- <sup>180</sup> Millet (concurring), 4-7.
- <sup>181</sup> “Abortion and Mental Health,” *American Psychological Association*, 2018,  
<https://www.apa.org/pi/women/programs/abortion>.
- <sup>182</sup> Kavanaugh (dissenting), 39.
- <sup>183</sup> Leach, “At the Borders of the Body Politic,” 4.
- <sup>184</sup> Millet (concurring), 15.
- <sup>185</sup> Lloyd, “Note to File,” 8.
- <sup>186</sup> “Scott Lloyd Deposition,” 146.
- <sup>187</sup> Henderson (dissenting), 38.
- <sup>188</sup> Roholt, “Give Me Your Tired,” 533.
- <sup>189</sup> Millet (concurring), 6.
- <sup>190</sup> Millet (concurring), 17.
- <sup>191</sup> Natalie Avery Barnaby, “Pregnant and Detained: Constitutional Rights and Remedies for Pregnant Detainees,” *Journal of Criminal Law and Criminology* 111, no. 2 (2021): 546.
- <sup>192</sup> Leach, “At the Borders of the Body Politic,” 8.

- <sup>193</sup> Solinger, *Pregnancy and Power*, 261, 271.
- <sup>194</sup> Berlant, *Queen of America Goes to Washington City*, 99.
- <sup>195</sup> The case was in Missouri and blocked by Senior U.S. District Judge Scott O. Wright in the case of Myrna Dick. It reached headlines: “Deportation Blocked; Fetus ‘American,’” *Washington Times*, May 28, 2004, <http://m.washingtontimes.com/news.2004/may/28/20040528-115955-4373r/>.
- <sup>196</sup> Leach, “At the Borders of the Body Politic,” 6.
- <sup>197</sup> Davi Johnson Thornton, “Race, Risk, and Pathology in Psychiatric Culture: Disease Awareness Campaigns as Governmental Rhetoric,” *Critical Studies in Media Communication* 27 (2010): 311–35.
- <sup>198</sup> Hernández, *Migrating to Prison*, 1.
- <sup>199</sup> “Scott Lloyd Deposition,” 67.
- <sup>200</sup> Fixmer-Oraiz, *Homeland Maternity*, 142.
- <sup>201</sup> “Abortion Policy in the Absence of *Roe*,” *Guttmacher*, June 1, 2021, <https://www.guttmacher.org/state-policy/explore/abortion-policy-absence-roe>.
- <sup>202</sup> Adam Liptak, J. David Goodman, and Sabrina Tavernise, “Supreme Court, Breaking Silence, Won’t Block Texas Abortion Law,” *New York Times*, September 19, 2021, <https://www.nytimes.com/2021/09/01/us/supreme-court-texas-abortion.html>.
- <sup>203</sup> Texas Attorney General, “AG Paxton: Texas Must Not Become a Sanctuary State for Abortion,” *Texas Attorney General*, October 20, 2017, <https://texasattorneygeneral.gov/news/releases/ag-paxton-texas-must-not-become-a-sanctuary-state-for-abortion>.

<sup>204</sup> Shannon Najmabadi, “Lubbock Votes to Become the State’s Largest “Sanctuary City for the Unborn,” *Texas Tribune*, May 1, 2021,

<https://www.texastribune.org/2021/05/01/lubbock-abortion-vote-sanctuary-unborn/>.

<sup>205</sup> “Remarks by President Trump at the 47<sup>th</sup> Annual March for Life,” *White House*,

January 24, 2020, [https://www.whitehouse.gov/briefings-statements/remarks-](https://www.whitehouse.gov/briefings-statements/remarks-president-trump-47th-annual-march-life/)

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<sup>206</sup> Lloyd, “Note to File,” 7.

<sup>207</sup> Fixmer-Oraiz, *Homeland Maternity*, 142.

<sup>208</sup> See the website dedicated to creating more sanctuary cities for the unborn:

Sanctuary Cities for the Unborn, <https://sanctuarycitiesfortheunborn.com/>.

## Chapter Two: “We Cannot Think of Immigration and Abortion As Separate Issues”:

### How the Trump Administration Institutionalized Reproductive Punishments for Migrant Women

*"As most people know, and for those who would like to know, I am strongly Pro-Life, with the three exceptions - Rape, Incest and protecting the Life of the mother - the same position taken by Ronald Reagan. We have come very far in the last two years with 105 wonderful new Federal Judges (many more to come), two great new Supreme Court Justices, the Mexico City Policy, and a whole new & positive attitude about the Right to Life. The Radical Left, with late term abortion (and worse), is imploding on this issue. We must stick together and Win for Life in 2020. If we are foolish and do not stay UNITED as one, all of our hard fought gains for Life can, and will, rapidly disappear!"* –Tweet by Donald Trump (@realDonaldTrump), May 18, 2019<sup>1</sup>

While the abuse pregnant migrants faced in detention centers was horrific, the Trump administration ensured that migrants had little to no reproductive choices even if they were not detained. The Trump administration implemented a series of anti-choice and anti-migrant policies outside of the ORR and ICE, capitalizing on racism, sexism, and xenophobia for Trump’s own political advantage. The administration reinstated and expanded former president Ronald Reagan’s Mexico City Policy (also known as the Global Gag Rule), which decimated the aid foreign NGOs received from the United States if they supported abortion. Domestically, he instituted a similar policy by slashing Title X benefits. The administration also created a “Zero Tolerance” immigration policy that deeply affected migrant families and led to family separation. They passed a litany of “conscience” provisions that allowed providers and pharmacists to refuse to care for patients who were seeking care they might deem “immoral.”<sup>2</sup>

Trump also made a clear anti-choice statement by being the first president to target a non-profit such as Planned Parenthood for defunding on the first page of their

administration's budget. This act, which Trump's supporters referred to as "Making History in Condemning Abortion," was especially important considering that Planned Parenthood is the primary healthcare provider for undocumented peoples.<sup>3</sup> Each of these measures alone are particularly harmful to women and vulnerable communities, but together, they created a powerful system of neglect and abuse for migrant women.

Much of Trump's positions were about mobilizing and energizing his base and he used the bodies of Brown pregnant women to generate support for his administration. Brittany Leach argues that "pregnant immigrant bodies provide an anchor around which radical-right discourses can coalesce, despite their contradictions."<sup>4</sup> Similarly, migrant women are often mobilized to meet state objectives, allowing the state to act as if it cares about women.<sup>5</sup> "Women matter" as long as the state does not have to actually address their concerns. Pregnant women and migrant women are both treated with pseudo-compassion as the state upholds a guise that it cares for women, migrants, and people of color, all the while stripping them of basic human rights and dignity. Being pregnant *and* a migrant was particularly detrimental under the Trump administration. Lisa Sun-Hee Park explains, "Pregnant immigrant women . . . embody a walking target for the expression of a number of national anxieties regarding the quantity and quality of our citizenry."<sup>6</sup> Because of fears about migrant reproduction, pregnant migrants threatened the hegemony of white America, which in turn, shaped Trump's abortion and immigration policies.

Pathological anxieties over migrant reproduction rates fueled the Trump administration's anti-choice and anti-migrant position and garnered support from

conservative allies. The solution to the problems that Trump used for political gain was disciplining women and migrant bodies to perform in certain ways. Trump iterated that migrants were an omnipresent threat in order to justify his extremely restrictive policies and dehumanizing rhetoric. Lisa Flores explains this phenomenon as making migrants “highly visible but also absolutely erased.”<sup>7</sup> A key way that the administration contained the threat migrant women’s reproduction inflicted on white America was by amending and implementing several health policies. Trump’s policies targeted abortion rights, overseas and domestically, which decimated health systems that offered abortion, birth control, or other types of reproductive healthcare. Like his Republican predecessors, Trump made it increasingly more difficult for migrants to get abortions in countries that received U.S. aid while stripping women of their abortion rights in the United States. Such acts helped Trump politically by galvanizing a base of anti-choice supporters; in the process, these political acts debilitated, dehumanized, and punished migrant women for their presence in the United States and for (potentially) accessing American social services.

The dehumanization of migrants was justified, in part, by rhetorics of pathology, which blame migrants for societal ills and problems. Dehumanization is a “key step in governmental infliction of abuse, atrocities, and harm against the dehumanized group, making it a central process in the subordination of a marginalized group.”<sup>8</sup> Treating migrants as less than human or subhuman keeps them in a state of vulnerability and instability. Douglas Rivlin, communication director at immigrant rights group America’s Voice, said, “It’s [Trump’s] comfort zone—to go after people of color and turn them into sort of the specter of scary, violent people as

a political strategy.”<sup>9</sup> Curated hysteria over migrant presence and a “porous” border garnered fears that white people were being “replaced” by people of color and migrants.

At the same time, reproductive healthcare for all women, but especially low-income, BIPOC, and migrant women, was stripped through multiple policy shifts. NARAL Pro-Choice America described the Trump administration’s policies as “gutting the programs that help the most vulnerable women and families... this so-called pro-life administration would make life unbearable for those most in need. We’ve never seen a budget so detrimental to women’s lives.”<sup>10</sup> The ideational fusion between the two issues supported an anti-choice, anti-migrant culture designed to protect and benefit whiteness and patriarchy. In recent years and especially under Trump rule, sexist, white nationalists have become “increasingly comfortable admitting” that “state crackdowns on reproductive and immigrant rights are inextricably linked.”<sup>11</sup> Representative Steve King (R-IA) explained, “If we continue to abort our babies and import a replacement for them in the form of young violent men [through immigration], we are supplanting our culture, our civilization.”<sup>12</sup> In order to protect American borders, values, culture, and babies, migrant women’s rights were a necessary casualty in the right-wing fight for an anti-abortion and anti-immigration world. Their humanity, health, families, and wellbeing were a price to pay to preserve white supremacist patriarchy.

One of my primary goals for this chapter is to investigate how rhetorical pathology uses white supremacy and patriarchy as guiding ideologies to justify control over migrant reproduction. To do so, I examine the anti-choice and anti-

migrant policies that Trump co-opted for political gain on a broader scale, outside of detention center policies. I adopt a LatCrit lens to argue that the administration capitalized on pathological characterizations of immigration and abortion to disenfranchise migrants. Migrants were pathologized for facets of their intersectional identities; they were dehumanized by gender, nationality, race, and class, which all functioned as dog whistle politics to advantage Trump. I centralize the migrant experience to expose how they were pathologized through a series of contradictory rhetorics, unified by white supremacy and patriarchy that shamed migrant women for accessing reproductive healthcare and decimated the healthcare systems available to them.

In this chapter, I further develop the argument that a key component of rhetorical pathology rests in the inherent contradictions in conservative anti-abortion and anti-immigration platforms. The Trump administration capitalized on a multitude of hypocrisies for Trump's own political advantage and as dog-whistles for partisan gains. We saw the administration (claim to) humanize and care for the fetus, while dehumanizing women and children by eroding and blocking state support, like in Chapter One. In what follows, I explain more pathological contradictions such as how the administration stated that it "protects women and fetuses" but ignored the health and economic needs of migrant women and children. Likewise, Trump and his anti-choice supporters claimed to "save" people of color from abortion through racial uplift, while supporting and strengthening white supremacy. We also saw pleas to save the fetus, only to fail to care for Brown babies and children after birth. These hypocrisies are embedded in rhetorical pathologizations of immigration and abortion.

What unifies these contradictions is white supremacy and patriarchy. Rhetorical pathology shapeshifts and contorts to maintain white supremacy and patriarchy through dominance and control over women's reproduction, even by integrating contradictory logics. For white supremacists and misogynists, control is necessary because people of color might do something that threatens the hegemony of white America unless they are heavily supervised and surveyed. Because Trump supporters are unified by white supremacist and misogynistic rhetoric, they largely supported Trump's co-option of pathological contradictions and responded favorable to his dog-whistle politics.<sup>13</sup>

Next, I examine three rhetorical strategies that the Trump administration and its conservative allies employed to advance a white supremacist, anti-choice, and anti-migrant agenda in healthcare policies outside of detention centers. The first strategy I analyze is how the administration framed migrants as *public charges*, ready and waiting to abuse American institutions and benefits. Second, the administration used *debilitation strategies* to uphold a culture of stress and institutional gridlock for migrant women, clearly communicating they were not welcome in America and were unworthy of state protection. Third, they employed a *love them both* rhetorical strategy. Amanda Roberti argues that historically, pro-life discourses relied on making fetuses human as a strategy to demonize abortion and frame abortion rights as murder. After criticism in recent decades that conservatives ignore women when it comes to abortion, many have shifted their framing to argue that abortion *also* hurts women. "Love them both" rhetorics argue that abortion is harmful for *both* women and fetuses.<sup>14</sup> "Love them both" upholds the guise that anti-abortion legislation saves

women from themselves or the doctors that supposedly exploit them. Using Trump's policies, I argue that the "pro-woman" strategy still elevates fetal development over women's humanity. Rhetorical attempts to include women nevertheless collapse into fetus-first frames. Together, the public charge, debilitation, and "love them both" strategies work together to federally sanction white supremacy through anti-abortion policies.

In addition, I use "Babies Lives Matter," an obvious play on "Black Lives Matter," to assess how white supremacy maintains its dominance by co-opting progressive language. Scholars such as Corey Robin and Jennifer L. Holland argue that dominant discourses mimic the rhetoric of progressivism to undermine its force and power.<sup>15</sup> Dominant discourses react and take new shape to manage threats, which allows them to maintain control by co-opting attacks on their dominance. This strategy mocks, belittles, and robs progressive rhetoric of some of its power and advances a white supremacist and patriarchal agenda. With "Babies Lives Matter," I argue that this is yet another case in a long history of instances where anti-choice groups co-opt progressive abortion arguments. In this case, the right used social justice language to vilify abortion rights for people of color and movements for racial justice. In the wake of the 2020 racial justice protests, the anti-abortion movement's tactic was to frame fetuses of color as the new and true oppressed minority. This rhetoric belittled the Black Lives Matter movement and made fetuses *the* ones who deserve life most, not those standing up against racism and police brutality. Here, I connect anti-abortion campaigns that demonized women of color for "betraying" their race by having an abortion to policy rhetorics that curb migrant women's

reproductive rights.

### **Centralizing Migrants' Experiences: A LatCrit Lens**

LatCrit is the necessary lens to analyze the contents of this chapter because it prioritizes the unique experiences of Latinas. Daniel G. Solórzano and Dolores Delgado Bernal argue that the “rapid emergence of Latina/o civil rights scholarship” shows that the experiences of Latinas are “different and apart” from those of other racial minorities. Latinas need their own scholarly lenses to speak to their experiences. LatCrit interrogates whiteness, Othering practices, and dominant ideologies.<sup>16</sup> Solórzano and Bernal explain that Latino/as and migrants in the United States face racism, sexism, classism, and xenophobia. They experience discrimination through language, immigration status, ethnicity, culture, identity, phenotype, sexuality, and other factors.<sup>17</sup> LatCrit is “designed to expose the need for more humane treatment,” a goal I share for this chapter. This lens privileges more detailed stories and analyses that help “humanize the law and policy” that oppresses Latinas and migrants.<sup>18</sup> I approach Trump’s policies and statements from a LatCrit lens that interrogates the white supremacy at the heart of anti-abortion and anti-migrant rhetoric and prioritizes the experiences and perspectives of migrant women. LatCrit also helps expose the white supremacy at the heart of pathological contradictions embedded in anti-abortion and anti-choice rhetoric.

The individual, institutional, and structural oppression Latinas and migrants faced was worsened under the Trump administration. Corey Robin argues that conservative fears of a “minority-majority nation” stoked white anxieties of being “outnumbered” and disempowered. As the country becomes more diverse, white fears

increase to the point where “racial dog whistles no longer suffice; a more brazen sound is required. Trump is that sound.”<sup>19</sup> White supremacists carrying tiki torches in Charlottesville, VA, in 2017 expressed these fears when they repeatedly chanted, “You will not replace us.” The idea of “replacement,” which I explore later in this chapter, is a racist conspiracy theory that blames white women for not having enough children. To them, white women are not having enough babies and women of color are reproducing at “alarming” or high rates. Therefore, birthrates lead to the potential demise of white supremacy as white people become outnumbered by, and less powerful than, people of color.

Replacement theory requires the subjugation of women and is intimately tied to white supremacy. Professor Kathleen Belew stated, “For people in the white power movement, everything is framed through reproduction and gender.” Birthrate obsession shaped policy goals and served “as a rally cry for recruitment” to the far right. Under this argument, white men become weaker because white women are not “doing their jobs” of reproducing.<sup>20</sup> The racism and sexism at the heart of replacement theory fueled Trump’s anti-abortion and anti-migrant policies, which worked to preserve and protect whiteness. The white citizen must reproduce for white America, while migrants were institutionally and systematically debilitated. If white women do not reproduce, society is doomed. But if migrants *do* reproduce, rhetorical pathology states that society is afflicted. And because “The racism of the Trumpist right is nastier than its most recent predecessors,” it must be examined for how it affected migrant women and shaped healthcare policy in the United States and globally.<sup>21</sup> In the next section, I outline Trump’s policies that particularly affected

abortion access in the United States and in the countries the U.S. provided aid for family planning and healthcare services.

### **Trump's Policies Affecting Migrant Access to Healthcare**

It is typical for presidents to reverse the decisions of their predecessors from a different political party, but this is especially true for abortion legislation. Like clockwork, a Republican president usually reinstates the Global Gag Rule (GGR) if their predecessor repealed it. And it is typical for a Democratic president to repeal the rule if their predecessor enacted it. Repealing and reinstating the Global Gag Rule has been among the first orders of business for many presidents just after inauguration. For instance, President Reagan created the policy in 1985, Clinton rescinded it in 1993, George W. Bush reinstated it in 2001, Obama rescinded in 2009, and Trump reinstated the policy in 2017 as one of his first directives as president. As of 2021, it has been in effect for 21 of the last 36 years.<sup>22</sup> The clear political divide over the GGR shows how abortion access is significantly shaped by the president and which political party is in power.

Originally known as the “Mexico City Policy,” the Global Gag Rule was implemented by the Reagan administration after the International Conference on Population in Mexico City in August 1984. The policy stated that as a condition for U.S. population assistance, nations that support abortion with funds not provided by the United States must have “segregated accounts which cannot be used for abortion.”<sup>23</sup> The assumption was that no United States dollars can be used for abortion or “coercive” family planning programs. In addition, the United States would “no longer contribute to separate nongovernmental organizations which

perform or actively promote abortion as a method of family planning in other nations.” The policy is known as the “Global Gag Rule” among its opponents because it also prohibits foreign NGOs from using any funds to provide *information* about abortion or to lobby a foreign government to legalize abortion.<sup>24</sup> The GGR slashes family planning programs across the world, especially ones that provide contraception and preventative care to youth and vulnerable communities.<sup>25</sup> Jon O’Brien, President of Catholics for Choice, said the rule diminishes “American’s moral leadership,” “decimates local partners,” and “rewards faith-based special interests at the expense of compassionate and comprehensive care for the most vulnerable people worldwide.”<sup>26</sup>

The already-severe policy was worsened by the Trump administration, which gravely expanded the policy and marketed it under a new name: Protecting Life in Global Health Assistance (PLGHA). On January 23, 2017, Trump directed the Secretary of State to “ensure that U.S. taxpayer dollars do not fund organizations or programs that support or participate in the management of a program of coercive abortion or involuntary sterilization.”<sup>27</sup> PLGHA forced a decision between receiving U.S. funds and providing comprehensive care. This expansion denied funding for HIV/AIDS prevention and treatment, nutrition, maternal health, family planning, and malaria. It affected programs in 56 countries; 21 where abortion was legal and 17 where abortion was legal, but inaccessible. Most countries affected were places where maternal death from unsafe abortions was high.<sup>28</sup>

Women from these countries likely needed to travel in order to obtain a safe abortion, including women from El Salvador, Nicaragua, and Honduras. As shown

through Jane Doe and the women discussed in this chapter, forcing women to travel to the United States for care was an intense, inhumane burden full of deportation, death, and criminalization risks. Of course, Trump did not care about denying healthcare to places he had openly referred to as “shithole countries.” The “shithole” remark helps explain how whiteness was at the forefront of Trump’s policies regarding migrants. Ibram X. Kendi argues that “Perhaps racist Americans see the browning of America as the shitholing of America.”<sup>29</sup> The pre-Trump version of the GGR affected about \$575 million in United States aid, but his expanded policy affected about \$8.8 billion.<sup>30</sup>

In addition to harming women’s physical health and safety, PLGHA prevents organizations from informing patients about abortion. Feminist and anti-racist advocacy groups showed how this rule stifles free speech, censors political debate, and crushes lobbying efforts that could be used to liberalize abortion rights and access. Jonathan Rucks, senior director of policy and advocacy at Population Action International (PAI) argued that “whole communities could be cut off” with the GGR. Representative Nita M. Lowey (D-NY) called it a “cruel and unprecedented attack on the world’s most vulnerable women.”<sup>31</sup> The GRR and the worse PLGHC decimates health systems across the globe and encourages unsafe procedures, especially for communities that rely heavily or exclusively on these family planning programs for care.

In a similar vein, Trump issued a “domestic gag rule” by cutting off funding for Planned Parenthood and reworking Title X. Domestically, the federal government provides grants for family planning services through the Family Planning Program,

Title X of the 1970 Public Health Service Act. Each year, it serves over four million low-income, uninsured, young, or underserved people. Under the domestic gag rule, providers could not refer their patients to abortion care and were only permitted to counsel them about life-affirming options or to crisis pregnancy centers.<sup>32</sup> If clinics refused, they were forced out of the program, which happened to Planned Parenthood. Trump listed “stopping taxpayer funding of the big abortion industry” through the Title X Protect Life Rule as one of his biggest pro-life accomplishments of his first term.<sup>33</sup> While he touted these policies as victories, his opponents like Jeanne Shaheen (D-NH) said gag rules ignore “decades of research, instead favoring ideological politics over women and families.”<sup>34</sup>

Trump also received much public criticism for his inhumane family separation policies. The Majority Staff Report from the Committee on the Judiciary of the House of Representatives found that Trump’s family separation policy began even before the Zero Tolerance Policy immigration policy that infamously separated migrant families. The administration began discussing the idea of a family separation policy less than one month after Trump’s inauguration. The Department of Justice and the Department of Homeland Security implemented a family separation pilot program in the El Paso Border Patrol Sector in July 2017. The program lasted for five months and officials were unable to keep track of parents and children in a way that made reunification possible. Despite this, the administration still made family separation a key part of their Zero Tolerance immigration policy in 2018. Not only did the policy separate vulnerable children from their families, but the programs had little oversight and direction. Officials were unclear of which children belonged to which families.

Hundreds of children were never, and likely will never be, reunited with their families.<sup>35</sup>

The PLGHA, Title X, and family separation were key Trump policies that helped decimate migrant access to healthcare, especially reproductive care. Trump also passed a Public Charge Rule that targeted migrants and helped create a culture of debilitation and stress for migrant communities. In what follows, I investigate the rhetoric of these policies and statements from Republicans expressing support for Trump's agenda. These discourses worked to protect whiteness and send a clear message that migrants would not be protected in the United States. Public charge, debilitation, and "love them both" are extensions of rhetorical pathology because they blame migrant women for the nation's problems and uphold white supremacy and misogyny. The solution to these problems was disciplining bodies to perform in ways that support racism, nativism, and an anti-choice regime. The rhetorical strategies of making migrants public charges, debilitating them, and arguing that anti-abortion politics were for their own good shows the lengths this administration went to in order to preserve white supremacy and enact anti-choice policies across the nation (and globe).

### **"Public Charge" Rhetoric and Migrant Women**

"Public charge" is a raced, gendered, classed, and nativist term that has been written into government policies for over 100 years. It has traditionally been used to disenfranchise migrants and/or people on welfare or government assistance in the United States. Public charge rhetoric frames groups of people as leeches on state resources and exploiters of taxpayer dollars.<sup>36</sup> The United States Citizenship and

Immigration Services (USCIS) of 1999 defined a public charge as an “alien who has become (for deportation purposes) or is likely to become (for admission or adjustment of status purposes) primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for low income maintenance, or institutionalization for long-term care at government expense.”<sup>37</sup> While public charge rhetoric generally discriminates against all migrants, migrant women were more likely to be described through dependency. As argued in Chapter One, rhetorical pathology frames Brown women’s reproductive capacity as always already a potential burden on state resources. Similarly, sexist assumptions about women’s agency described Brown women especially as likely burdens on social services. They were said to have weaker morals, were unable to self-regulate, and needed help making the “right choices.”

BIPOC women were also targeted as a demographic because public charge rhetoric was less concerned with individual practices, and more concerned with demonizing entire groups of people.<sup>38</sup> Historically and during the Trump administration, migrant women in particular were vilified and disenfranchised by public charge rhetoric. Public charge language was dangerous and powerful because we often rely on metaphors to understand difference, especially to understand other cultures.<sup>39</sup> This language shapes our understandings of one another and also invades our policy discourses. As an indicator of pathology, the public charge moniker is difficult to displace once it is inflicted on a group of people. That is, once migrant women were characterized as public charges, it was much harder to see them as self-sufficient, contributing members of society.<sup>40</sup>

Public charge rhetoric flourishes in immigration policies as a justification for exclusion and deportation. It appears in healthcare policies as a reason to deny migrants social services by claiming they are hazardous to public health and safety. In the 1990s, Latina and Asian migrant mothers in California were targeted by a series of healthcare fraud programs. The Department of Health and federal immigration authorities created programs that rendered low-income migrant women's use of Medicaid for prenatal care and birth as fraudulent. Public charge rhetoric empowered the government to redefine and determine what actions were considered "illegal." Park discusses many historical instances where "legal access and use of healthcare [became] retroactively illegal under certain conditions for certain people."<sup>41</sup> After accessing care, they were denied the citizenship rights they once enjoyed. Migrants were victimized because they were pathologized as irresponsible and burdensome. They were pawns in an anti-immigrant agenda that wanted to discipline migrants for infiltrating American ways of life. Decades after the 1990s' policy shifts, Trump's own public charge rule tapped into this "larger social phenomenon" of curtailing migrant rights to improve society, a practice "that has long historical roots in our national ideology."<sup>42</sup>

Not only did the 1990's policy shift empower government officials to determine what constitutes a public charge, it also framed migrant mothers as "always and solely burdens upon the state."<sup>43</sup> The phrase "always and solely" was problematic for migrant women, who were already assumed to be burdens on the state or very likely to become public charges. In fact, "likely to become a public charge" (LPCs) almost exclusively referred to migrant women since low-income migrant women's

pregnancies were considered a public burden. In 1875, migrant women could be subjected to “selective immigration,” a traditional practice of allowing only the “right type” of migrants to immigrate. The Immigration Law of 1891 made this practice official, legally allowing for immigration institutions to inspect and exclude certain migrants from entry. Public Health Service officials were required to issue a medical certificate to all migrants who carried “loathsome or dangerous contagious disease[s],” including pregnancy.<sup>44</sup>

Pregnancy fed into sexist exclusionary practices that sought to exclude women because of their bodily functions and mental deficiencies that could burden the state. Historian Martha Gardner explains that from 1880-1924, “likely to become a public charge” was an umbrella category that deported large numbers of women for their potential to burden the state with their “moral, marital, physical, and economic deficiencies.” Poverty laws generally applied to men and women migrants, but “likely to become a public charge” specifically targeted women for immorality and indigence. From 1895-1915, LPC designations accounted for two-third of exclusions from entry into the U.S.<sup>45</sup> Public charge rhetoric deeply affected migrant women’s lives and shaped immigration policy, a practice that continued with the Trump administration.

Moreover, public charge rhetoric flourishes in and enhances moments of heightened nativism, which helps explain the power of public charge imagery during the Trump era. Natalie Avery Barnaby argues that nativist sympathies increased in recent years with rampant political discourse that vilifies the more visible presence of migrants in the United States, a presence often described through “floods,”

“caravans,” and “droves” to make white people fearful about being outnumbered.<sup>46</sup> A political climate ripe with nativist discourses told migrants they were under siege—they should avoid unnecessary surveillance or scrutiny. Fears of being too visible discouraged them from accessing care, sometimes in dire circumstances.<sup>47</sup> Trump ensured that an immigrant threat was at the forefront of his speeches and tweets, policies, and press appearances, which advanced the appearance that America was being invaded by criminals.<sup>48</sup>

Hyper-surveillance and regulation of migrants made their presence seem greater, more visible, and more threatening. Park argues that the more central migrants become in everyday life, the more their presence is “increasingly destabilized and marginalized as burdensome.”<sup>49</sup> Dependency also runs contrary to the Trump party platform that praises self-sufficiency, personal responsibility, and taxpayer protections.<sup>50</sup> Not only were migrants a threat because of their presence in the United States, but their dependency threatened Republican principles like protecting taxpayer money and defunding social services. Trump garnered support from his base for his anti-abortion and anti-migrant policies by portraying them as protecting taxpayer dollars and limiting the number of public charges in the nation. The taxpayer argument was particularly persuasive given that public charge rhetoric uses a market-driven approach to determine the value of migrant lives; as Park puts it, “the cheaper the better.” Migrant presence is thus only permitted because of the generosity of the United States.<sup>51</sup> On behalf of white America, Trump decided that migrants from America’s southern border were asking for too much by wanting to live in the United States and potentially have healthcare, and were too expensive to

protect.

The Trump administration targeted undocumented migrants in their policies, but they also passed legislation to curb the rights of legal immigrants. They passed a policy intended to deport legal, permanent residents in the United States if they used Medicaid or public benefits. Colloquially called the “Public Charge Rule,” the policy denied green cards to people who use (or have the potential to use) government benefits and social services. It primarily affected migrants from Africa and Latin America, limiting their migration to favor wealthy and educated migrants, mostly from Europe. This rule discriminated against the poor, sick, or those who might need public housing or food assistance. The proposal was struck down by judges in New York, California, and Washington, but the public charge rhetoric was incredibly damaging. Trump-appointee Kenneth T. Cuccinelli II (R-VA), former director of United States Citizenship and Immigration Services, stated the clear racist and classist intent behind the policy. He said, “Give me your tired and your poor who can stand on their own two feet and who will not become a public charge.”<sup>52</sup> Cuccinelli feared the policy would set a dangerous precedent for legal residents and greatly expand what it meant to be a public charge. In his ruling, Judge George B. Daniels of the Federal District Court called the rule “simply a new agency policy of exclusion in search of a justification,” and one that is “repugnant to the American Dream of the opportunity for prosperity and success through hard work.”<sup>53</sup> When one person’s inclusion is predicated on another person’s exclusion, America cannot be a place of opportunity and hope. Despite being struck down twice, the rule went into effect on February 24, 2020.<sup>54</sup>

Trump's Public Charge Rule widened the net of who is considered a public charge by denying immigrant visas to those without health insurance or who could not afford it. He said this policy protected American hospitals and taxpayers from paying for legal immigrants, who he said were three times as likely as native-born citizens to lack health insurance.<sup>55</sup> The policy considered a "totality of circumstances," including "positive" and "negative" factors. Negative factors include a lack of English proficiency, financial stability, employment, education, and sound credit score.<sup>56</sup> This criterion equated things like English proficiency with self-sufficiency, a clearly racist and ethnonationalist framing. Trump garnered support for his public charge legislation by arguing that it protected American values and taxpayers. But more accurately, this legislation showed how a human being, especially a non-native or person of color, was valued solely based on their market costs and benefits.

Whether it was threatening deportation or denying healthcare, Trump made public charge legislation a key part of his platform. Trump retweeted a post from @TeamTrump which stated, "President @realdonaldtrump is ensuring that non-citizens do not abuse Americans public benefits. The Public Charge Rule will protect public resources, encourage self-sufficiency, and preserve the social safety net. This will protect U.S. taxpayers and uphold the rule of law." Trump argued that his public charge legislation ensured that non-citizens "do not abuse our nation's public benefit" and required immigrants to be "financially self-sufficient."<sup>57</sup> For Trump and his base, it did not matter if migrants were actually using social services at alarmingly high rates. In fact, studies have repeatedly shown that a small fraction of America's

healthcare spending is used to provide care to migrants.<sup>58</sup> Instead, the curated hysteria over the *possibility* that migrants become burdensome justified calls to deny them rights and reified white supremacist commitments.

Similarly, racist, nativist, and sexist stereotypes about people deemed a public charge shaped Trump's call for a "merit-based" immigration system that would cap the number of refugees allowed in the country and "protect workers and the economy."<sup>59</sup> He repeatedly tweeted his merit-based immigration plan, arguing that it would end "chain migration and the visa lottery," which has hurt "our economic national security" over the years.<sup>60</sup> We would have "no problems at all" if people immigrated based on merit because they would help "Make America Great Again" by ensuring that "great people" are coming into the country.<sup>61</sup> For him, "merit" meant passing a civics class and demonstrating English fluency. Similarly, the "merit-based" program would not include Dreamers or asylum seekers who he argued, lodged "frivolous claims."<sup>62</sup> A merit-based system primarily attacked migrant families because it would have prioritized "high earners and skilled workers" over those with family ties to the United States. Ending "chain migration" was more important than keeping families together. This proposed system would have (once again) valued migrants almost solely in terms of their economic value and their contributions to the country.<sup>63</sup>

For Trump and his supporters, public charges were taking advantage of hard-working Americans, but they also were using taxpayer money to engage in immorality. The public charge rule threatened migrants' "overall health and sexual and reproductive health" by denying them health insurance through Medicaid. The

policy damages the “health, financial security and well-being” of migrants and their families.”<sup>64</sup> Migrants’ healthcare rights then became a necessary casualty in the fight for a pro-life culture. Migrants were prohibited from getting abortions both in America and overseas with the GGR turned PLGHA. In a 2020 open letter to pro-life leaders and activists, Trump said that “forcing taxpayers to pay for abortions” for other people was an “abhorrent position.” He praised himself for instating the PLGHA, which prevented taxpayers from funding the “big abortion industry” and making abortion an international right. Trump also boasted that he saved taxpayers from paying for medical research using “aborted baby body parts” and urged pro-life leaders to re-elect him so he could pass the “No Taxpayer Funding For Abortion Act.”<sup>65</sup> The taxpayer argument distorted the reality of how the U.S. aids foreign countries with family planning services and stoked outrage that people were forced into paying for something they deem immoral. Not only did this misrepresent and stigmatize the operations of foreign countries, but it justified his move to expand the policy. Trump framed himself as the hero, swooping in to save taxpayers, unborn fetuses, and women from manipulative doctors and healthcare initiatives.

Trump’s supporters and conservative leaders echoed the same arguments, appealing to Republicans who care deeply about taxes and programs that their money helped fund. Senator Tom Cotton (R-AR) praised the GGR for its “concern for the unborn” and for its promise that “Not one dime of taxpayer money [will] pay for abortion.”<sup>66</sup> Former White House Press Secretary Sean Spicer argued that the policy was not only about the value of life, but also about “respect[ing] taxpayer funding” of a \$575 million industry that “funds abortions overseas.”<sup>67</sup> Former House Majority

Leader Kevin McCarthy (R-CA) also used the “taxpayer” argument when he said, “Not only is funding abortions abroad far outside America’s national interest, the decision to overturn this rule allowed money from the American people to be used to support a practice that millions of Americans are firmly against.”<sup>68</sup> Concern for the taxpayer was a persuasive argument for Trump’s base and this framing helped justify curtailing healthcare programs for migrants and those accessing abortion care.

The chilling effects of public charge rhetoric and anti-abortion legislation would continue to haunt migrant communities that have been severely disenfranchised by Trump’s regime. Characterizations of migrant women as public charges helped create a culture of stress inflicted on migrant communities. Marking migrants as exploitive, immoral, or undesirable justified dehumanizing them. Their experiences were made invisible or irrelevant. Public charge discourse also warranted policies that denied migrants healthcare and terrorized them by parking ICE and Border Patrol officers outside of clinics. In Memphis, TN, Planned Parenthood moved 400 feet from an ICE facility, which was a terrible move for an organization claiming to care about vulnerable communities.<sup>69</sup> Migrants faced a patchwork system, full of discrimination, lack of information, and red tape that made a normal life impossible. Criminalizing abortion and criminalizing migrants heavily affected communities where people were afraid to leave the house, go to school, or seek healthcare. From statements to policies to interpersonal harassment, migrants were significantly debilitated under Trump terror.

## **“Targeted for Death but Not Killing”: Debilitation Strategies Under Trump Terror**

The rhetoric of debilitation encourages the “systematic degradation of a disposable population.” It is characterized by “willful neglect” and slowly wearing down populations through biopolitical risks like poor health, injury, and infrastructural breakdown. Members of the targeted population have their wellbeing “systematically foreclosed and gradually eroded.”<sup>70</sup> This is particularly damaging for migrants because debilitation strategies are also racialized. Members of groups are targeted *because* they are part of a “disposable” population. Debilitating migrants allowed the Trump administration to garner “political support among ethnonationalists while concealing structural violence.” As long as the administration could hide death rates or keep the numbers low, they were less likely to attract public attention to their gravely inhumane policies. Therefore, people of “disposable” or “undesirable” populations were targeted for slow and painful death, but not intentional or direct killing.<sup>71</sup> Suffering was permissible and even encouraged, as long as people are not openly murdered, which would be contrary to the pro-life agenda Trump claimed to uphold and advance.

Debilitation operates under the guise of official promises of protection while systematically eroding healthcare and blocking citizenship protections for migrants. Brittany Leach argues that debilitation helps explain many of the contradictory rhetorics of the Trump administration because it “allows for the appearance of fetal protection to coexist with death, risk, and injury.”<sup>72</sup> This strategy helped the administration appear pro-life while they targeted pregnant migrants through

detention, family separation, and lack of institutional protections. Similarly, debilitation affirmed the Trump administration's power to police bodies and borders without the responsibility of addressing reproductive injustices.<sup>73</sup> Trump's anti-migrant and anti-abortion policies used debilitation rhetorics to slowly wear down migrants through discrimination and infrastructure changes. Next, I discuss conscience legislation, a patchwork healthcare system, and family separation as policies that severely debilitated migrants' healthcare access and rights to bodily autonomy.

### *Conscience Legislation*

The Trump administration debilitated migrant women's reproductive autonomy through discriminatory rhetoric and policies that strengthened a healthcare professional's right to discriminate. Also called right-to-refuse legislation, conscientious objections, or refusal clauses, conscience legislation allows healthcare professionals to deny care to someone if they find the treatment immoral. This legislation affects people seeking "controversial" treatments such as emergency contraception, abortion pills and medicine for miscarriages, HIV/AIDS treatment, PrEP, end-of life care, vaccinations, and the like. Conscience legislation also empowered healthcare professionals to discriminate against certain types of people such as LGBTQ+ persons. It protected the right to refuse by medical professionals, including pharmacists and urgent care physicians.<sup>74</sup> Equipping EMTs and urgent care physicians with the power to decide whether someone received healthcare encouraged hierarchies in who was able to receive treatment. It also placed vulnerable people in dire circumstances.

In January 2018, Trump created a Conscience and Religious Freedom Division as part of Health and Human Services, fueled by a mission to expand and protect religious freedom rights. This agency helped expand the number of conscience legislation and its power to shape healthcare access. In addition to creating the division, Trump also appointed religious, anti-choice leaders to head the Office of Civil Rights (OCR). Before Trump, the Office of Civil Rights' mission statement was to "improve the health and well-being of people across the nation" and ensure equal access to HHS health care services. The new statement positioned the OCR as a law enforcement agency that "protects religious beliefs and moral convictions by individuals and institutions" by enforcing conscience and religious freedom laws.<sup>75</sup> This shift was important because it showed the administration's priorities. The agency went from a position of "equal healthcare for all" to a watchdog system that encouraged discrimination and healthcare disparities under the guise of upholding religious liberty. Trump continued to tout the "religious liberty" frame in an executive order declaring the "fundamental and unalienable rights of conscience and religious liberty."<sup>76</sup> For many of Trump's opponents, "religious liberty" was more accurately described as a "right to discriminate."

Similarly, Trump's conscience regulations were much broader than conscience legislation from previous presidents. His administration's regulations allowed for refusal of care if it required someone to "assist" in any "program or activity" with "an articulable connection" to a certain procedure or service. This expanded the rule to include indirect participation with the procedure or medicine.<sup>77</sup> "Assisting" was an intentionally broad term that permitted professionals to deny

information to patients, including referrals, counseling, or options for financial assistance. It was already difficult for migrants to find trusted providers with multiple language and insurance options, but Trump worsened a hard-to-navigate system. New regulations denied information, which was also difficult to find, and greatly widened the net of people allowed to discriminate in providing care. Religious rights to discriminate are a slippery slope into discriminating against people based on race, ethnicity, English proficiency, etc. Empowering entitled vigilantes or paternalistic officials who believe they know what is best for other people makes for a dangerous and deadly system.

The 400+ page conscience rule also required institutions to comply with Trump's expanded religious freedom objections. It mandated hospitals, universities, clinics, and similar institutions to certify their compliance with over 25 federal conscience laws if they received funding from federal programs like Medicare and Medicaid.<sup>78</sup> The system of ultimatums and punishment for non-compliance privileges religious refusals over healthcare access. Louise Melling of the American Civil Liberties Union (ACLU) argued that "religious liberty is a fundamental right, but it doesn't include the right to discriminate or harm others. . . Medical standards, not religious beliefs, should guide medical care."<sup>79</sup>

The Trump administration staunchly defended conscience legislation because it protected workers from being "bullied" into providing care. OCR director Roger Severino said that Trump's new conscience rule ensured "that healthcare entities and professionals won't be bullied out of the health care field because they decline to participate in actions that violate their conscience, including taking a human life."<sup>80</sup>

“Taking a human life” referred to physician-assisted suicide and abortion, since the administration supported fetal personhood. On a similar note, the state of California passed a universal abortion mandate, which required all state insurance plans to include abortion coverage. The OCR under Trump argued that this violated federal conscience laws. In response, the office put “California on notice that it must stop forcing people of good will to subsidize the taking of human life, not only because it is the moral thing to do, but because it is the law.”<sup>81</sup> Make no mistake that anti-abortion sentiment was certainly at the heart of this legislation. Severino used more vague rhetoric of ensuring that people do not have to “shed their religious beliefs to participate in healthcare,” but he quickly added that “certain medical professions such as OB-GYN should not be declared pro-life-free zones.”<sup>82</sup> Empowering a litany of people with the ability to refuse reproductive healthcare services showed how members of vulnerable populations were debilitated through paralegality.

Conscience legislation exemplifies how paralegality strengthens debilitation strategies. Paralegality refers to the “quasi-legal policy-making authority of bureaucrats, contractors, and enforcement agents.” Put simply, it allows numerous lower-level officials to debilitate others.<sup>83</sup> We saw this with the extended authority of ICE and ORR agents in Chapter One who furthered Trump’s anti-abortion and anti-migrant agenda. Here, it manifests in empowering doctors, receptionists, EMTs, pharmacists, and other workers to refuse care for someone, even in critical, life-threatening circumstances. Paralegality inappropriately empowers people with expertise in certain fields to act as authority figures in others. For instance, seemingly overnight, immigration officials became experts in women’s health and receptionists

got to determine whether someone received healthcare. It also gave power to people who might have had a vendetta against women, BIPOC, migrants, and queer people, providing them with an opportunity to exercise that hate and bias. Healthcare rights, especially for populations the Trump administration did not care about, were debilitated for migrants through paralegality. Their bodies became a key site for coalition-building for conservatives and the radical-right.<sup>84</sup>

Conscience legislation predominately affected migrant women because it allowed for discrimination against the most vulnerable people. The administration somewhat recognized this fact. The Department of Health and Human Services' official report on conscience legislation stated,

Many comments observed that various demographic groups—women, LGBT people, immigrants and refugees, people of color, people living with HIV/AIDS, people with language barriers, people living in poverty, people with disabilities, and people living in rural areas—already face barriers to access care and therefore would be disproportionately harmed by any additional barriers to access care.

In response, HHS “does not dispute” that people in certain demographic categories face health disparities, but argued that the conscience rule did not “create any negative effect on access to care that cannot be otherwise addressed, or that is not outweighed by gains in overall public health... or the benefits of compliance with the law and respect for conscience and religious freedom.” This statement took a “healthcare disparities already exist” approach to defending their legislation. HHS also went as far to say that conscience legislation *benefitted* underserved populations.<sup>85</sup> It was nonsensical to assume that severely cutting off providers and access to care somehow helps patients. It was also insulting to argue that health disparities were justified by “respect for conscience” and other “public health” gains,

which were somehow created through conscience legislation. This policy was also only “the law” because the administration helped make it one. Rhetorical appeals to reverence for the law were weakened when they were created by Trump appointees. The rhetoric in HHS’ statement demonstrated a disregard for migrant lives and well-being as they were further described as a necessary casualty in making religious people (but really only Christians) comfortable.

The administration could argue that underserved populations were not harmed by conscience legislation, but the reality was that migrant women were more likely to be in dire situations because of the culture during the Trump era. As people debilitated by fewer resources, migrants were often in more time-sensitive situations. It was significantly more difficult for migrants to have healthcare coverage, access to quality doctors in close proximity, and culturally-competent and linguistically-appropriate care. Migrants reported fewer healthcare visits, which especially affected women of reproductive age who generally need more visits for preventative care and reproductive options. Shelia Desai et al.’s 2019 study comparing abortion rates of migrants and U.S.-born women reported that migrant women who had abortions were typically older, uninsured, had not completed high school, and often had to travel 50 miles or more for care.<sup>86</sup> These findings shed light on some of the dire circumstances migrant women faced when accessing a patchwork healthcare system.

#### *Patchwork System*

Similarly, debilitation willfully neglected migrants by creating a patchwork system for accessing healthcare. When rhetorical pathology creates a spoiled identity, it justifies subjecting them to debilitating, “indirect killing.” As such, migrants faced

public charge legislation, conscience regulations, deportation fears, surveillance, militarization, family separation, and detention. Migrant communities were in a constant state of panic where confusion, fear, and misinformation were intentional; it kept people afraid and vulnerable. The Hyde Amendment prevented federal funds for abortion in non-therapeutic cases, Title X denied Medicaid reimbursement to Planned Parenthood, and the Zero Tolerance policy separated families and detained and deported migrants at high rates. Women often had to choose between their pregnancies and their families. Abortion and carrying a pregnancy to term both came with their own healthcare risks and safety risks of deportation or arrest.

Trump's anti-abortion and anti-migrant agenda were deeply intertwined—seeking healthcare could have ended in deportation or arrest. This was intentional. The administration continually iterated that they wanted to deport migrants and prevent the threat of “anchor babies” outnumbering whites. Terrorizing women out of reproductive healthcare served a white supremacist and patriarchal agenda. While forms of healthcare were harder for migrants to access, reproductive care was especially jeopardized. For instance, Layidua Salazar was denied access to remain in the United States because she was not living with her spouse. Days later, she discovered she was pregnant. Salazar sought an abortion, in part, because she did not want to risk being separated from her family and future child in detention. She said, “I can't do both. . . can't be in the middle of deportation proceedings and be pregnant.” Alejandra Pablos had an almost identical reasoning for why she also sought an abortion.<sup>87</sup> Forcing them to choose between their pregnancies and their immigration statuses was indicative of the constant terror undocumented women faced. It also

showed how the Trump administration did not care about fetuses, especially those born to women of color, and that their “pro-life” mission could only be considered anti-choice. The pathological contradiction of appearing to care about fetuses but not caring for them after birth demonstrated how control of migrant reproduction helped Trump earn points with his base and fulfill a white supremacist, anti-choice mission.

This patchwork system also affected access to preventative healthcare for migrant women. Preventative care is important for reproductive health, especially for populations with less access to reliable doctors or who faced institutional barriers to healthcare. Preventative care can take the form of STI screenings, mammograms, cancer screenings, and the like, but it also refers to prenatal care. Doctors’ offices became places of terror and possible deportation, which affected prenatal care as women were visiting clinics less often. Data from the Center for Disease Control and Prevention (CDC) reported higher rates of preeclampsia and preterm births for Latinas under Trump. Preterm birth was especially concerning because it is the largest contributor to infant mortality.<sup>88</sup> A report from the *Annals of Behavioral Medicine* also found a correlation between deportation fears and higher blood pressure among Latinas.<sup>89</sup>

Similarly, many doctors serving undocumented populations reported less clients than normal.<sup>90</sup> Numerous nonprofits working with migrant communities reported patients cancelling or pushing back abortion appointments for fears of deportation.<sup>91</sup> They stated that many of their patients were staying home, even if they were severely ill, because they feared the consequences of seeing a medical professional. Especially after physicians turned Purvi Patel over to the police for a

suspected abortion attempt, migrants also had to worry about whether their doctors were trustworthy.<sup>92</sup> These instances illuminate the disregard for migrant women's health and their future children.

These fears were worsened by the fact that Border Patrol was reported waiting outside of Planned Parenthood and parked on routes to clinics.<sup>93</sup> Patrol agents and racist "vigilantes" would take pictures of patients, record their license plates and car models, and harass people at clinics. As shown through Texas' Senate Bill 4 in May 2017, some cities outlawed "sanctuary cities" for migrants, which immediately placed migrants who had once been protected by their communities in a threatening position. Colloquially called the "Show Me Your Papers Law," this ruling was particularly detrimental to women seeking reproductive care and having to face ICE waiting to arrest them on clinic routes. This violence encouraged women to self-induce abortions or to seek illegal care. Some women came from cultures where self-inductions were normal and familiar. They could even include a cultural practice or spiritual condition, but this was not an ideal situation for all migrants. The violence embedded in these policies also led to poorer mental health outcomes for Latinas.<sup>94</sup> But since migrant women were deemed unworthy of state protection, these abuses were tolerated by and even supported by a racist patriarchy.

Fears of harassment, deportation, arrest, or violence created a reality where accessing abortion care was "absolutely more criminalized" for migrants. Because most women who seek abortions are already mothers, anxieties over family separation or arrest were heightened.<sup>95</sup> Women often had to put their family in danger by risking deportation, having their information recorded or released, and possibly

being separated from their families. Deportation proceedings could take years, which made it much harder for migrants to start a family because of the possibility that the state could take their baby away.<sup>96</sup> Migrant women had to navigate attacks on their reproductive health, documentation status, and racial identity in a system that continually asked them to choose between pregnancy and living in the United States. Yet, the administration touted a successful pro-life agenda because white birth rates were their main priority.<sup>97</sup>

### *Family Separation*

Trump's family separation policy also targeted migrant women and girls. Trump was warned that his policy would cause irreversible psychological harm and break up families, potentially forever.<sup>98</sup> This did not stop him from implementing the policy on a large scale through Zero Tolerance legislation. Many parents were sent to jail. Women and girls fleeing domestic violence were detained at high rates. A large number of women and girls were from Central American countries like Honduras, El Salvador, Guatemala, with high rates of gender-based violence and ranked among the most unsafe places to be a woman.<sup>99</sup> Women were set up for failure—fleeing violence subjected them to more violence. Trump's cruel family separation policy debilitated migrants by isolating them, cutting them off from their families, and exposing them to severe psychological stress.

The Trump administration justified his inhumane policy through the rhetoric of deterrence. When family separation was only an idea, Secretary of Homeland Security John Kelly stated that he would support family separation “in order to deter more movement along this terribly dangerous network.”<sup>100</sup> Even after mass public

criticism about his policy, Trump said, “if they feel there will be separation, they don’t come.” The Trump administration also refused to take responsibility for this crisis and continued to blame migrants. For them, it was migrants’ fault because if migrants were voluntarily deported, their families could stay together. In January 2019, Kirstjen Nielsen, then-Secretary of Homeland Security, said, “We are also facing a humanitarian catastrophe. For the first time, families and children make up the majority of those entering illegally. Why? Because word has gotten out that our broken legal framework will give them a ‘free pass’ into the United States.”<sup>101</sup>

Trump also argued, without evidence, that migrants exploited and used children to cross the border. Trump stated that migrants were “grabbing children. . . to come into our country in many cases.”<sup>102</sup> This was a sensational, fear-mongering argument that pitted children against migrants and painted migrants as criminal. It also stood in contrast to his argument that family separation and strict immigration policies “protect the nuclear family.” Trump argued that the “nuclear family” was protected when “chain migration” was limited. Instead, only “close familiar relationships” would be honored.<sup>103</sup> This argument was incredibly insulting as it used the rhetoric of a close-family to justify separating people from their extended families. But for Trump, the “nuclear family” was code for white families. The rhetoric of deterrence and appeals to the nuclear family seemingly justified the severe trauma of family separation policies, and migrant communities have been haunted by this policy and will continue to face its repercussions for decades. The fact that “family separation” could be part of a “pro-life” administration highlighted the pathological contradictions at the heart of an anti-migrant and anti-choice agenda.

Family separation was one of Trump's most controversial policies, even for some Republicans. But Trump's draconian policies were a test for "GOP hard-line policies of immigration." At the start of his tenure, Trump purged the Department of Homeland Security in order to hire "tougher" leaders. He made it clear that he was determined to implement inhumane policies that particularly affected Central American migrants, including those seeking asylum. Ronald Brownstein argues that even if some Trump statements and policies worried Republicans, they still generally supported and liked the anti-migrant and anti-choice direction that the party was headed towards. The fact that many Republicans disliked family separation, but supported almost all other draconian anti-migrant policies was too little, too late and invoked a false sense of compassion. Some Republicans wanted to take a stand after immense public outcry, while still supporting many other Trump policies that debilitated migrants. This is largely because Trump's abhorrent policies unified white Republicans.<sup>104</sup> They worked to expel the "Browning" of America and centered white (men's) interests. Policies were tilted towards white voters and supported a "coalition of restoration," a euphemism for a time where privilege was popular and white people did not have to answer to people of color. Brownstein explains that there was little "coherent and structured resistance" to Trump's immigration policies from Republicans.<sup>105</sup> Put succinctly, "Republicans dislike separating families. But they like 'Zero Tolerance' more."<sup>106</sup> Because of this, family separation was yet another instance where white America acted like it cared for Brown families and Brown women, without implementing much change or evaluating other degrading policies. Family separation also forced some migrant mothers to choose between being with

the children they already had and their abortion rights, which further separated migrant women from their families and curtailed their reproductive options.

Taken together, these institutional abuses created a complicated and impossible system that tried to punish migrants at every turn. The choice between their health and their freedom was “reckless and inhumane” and put migrants in an untenable position. Willful deterioration of migrants showed the ultimate goal of conservative debilitation strategies— “the dual production of permanent disability via the infliction of harm and the attrition of the life support systems that might allow populations to heal from this harm.”<sup>107</sup> Not only were migrants actively harmed, but they were also denied care that could have alleviated some of this pain or given them more autonomy or choices. Migrant livelihood was casually sabotaged by an administration that wanted to ensure they did not become outnumbered by the “public charges,” “the criminals,” “the rapists” and all of the other horrible rhetorics Trump used to describe migrants.

Debilitation rhetoric appears to contrast “love them both” strategies – why would the administration make migrants suffer while arguing that they help women? But the rhetorics made sense together given the fact that Trump’s care for women was pseudo-compassion and lip-service to save face after much criticism that he was a misogynist. This points to the pathological contradictions embedded in the politics of abortion and immigration. Both rhetorics argue through pathology that America would be improved if migrant women were not able to make their own choices. Regulating their bodily autonomy would protect the interests of white people and alleviate many of the nations’ problems. In the next section, I explore the “love them

both” discourse of the Trump administration. Even when they argued that Brown women needed to be saved from the harms of abortion, the fetus was still prioritized above women’s interests. “Love them both” rhetoric was a guise to act like they cared about women, while eroding their autonomy and elevating fetuses and embryos over living women.

### **Saving Women and Fetuses: A “Love Them Both” Approach**

“Love Them Both” rhetoric is used by anti-abortion groups to garner support for their policy positions by arguing that both women and fetuses are harmed by abortion. Briefly mentioned above, the “love them both” strategy is a more recent tactic anti-abortion advocates have adopted to quell criticism that they are anti-woman. Similarly, the “pro-woman” frame shows how dominant discourses mimic progressive rhetorical strategies to weaken their opponents and maintain hegemony. Jennifer L. Holland explains that if women could be convinced that abortion is harmful or that anti-abortion causes benefit women, then abortion could be eradicated without changing laws.<sup>108</sup> Conservative discourses tended to frame fetuses as living babies who are unjustly and immorally murdered in the womb. Women were overlooked, ignored, vilified, or seen as host bodies for other lives that were more worth saving than the women who carried them.

A newer strategy for anti-abortion framing has been to describe abortion as harmful to women’s health and safety. Anti-abortion advocates often argue that women “deserve better” than abortion. Under this argument, anti-abortion policies are pro-woman and should be implemented across the nation to support and educate women. Women needed to be helped and (white) men were the perfect ones to help

them. This protectionist frame justifies men's almost exclusive authority over women's bodies and abortion legislation. In her analysis, Roberti found over 70 percent of U.S. abortion bills from 2008 to 2017 adopted a pro-woman frame.<sup>109</sup> Co-opting progressive rhetoric of being pro-woman, conservatives could represent their partisan interests as universal or moral ones.<sup>110</sup> The pro-woman framing is increasingly popular, but the Trump administration did not completely shift their rhetoric; instead, they adopted a "love them both" approach. Their anti-abortion policies emphasized women and the unborn in order to achieve their pro-life goals.

The Trump administration needed to appear pro-woman in order to save face about his treatment of and views on women. Trump infamously made the "grab 'em by the pussy" remark and later argued that there needed to be "some form of punishment" for women who get abortions. He ridiculed multiple women's appearance, mocked women for being emotional during menstruation, bragged about sexually-assaulting women, and actively worked to rollback women's rights. Despite the fact that Trump claimed "nobody has more respect for women than I do—nobody," his anti-woman record disproved this argument.<sup>111</sup> Trump capitalized on the conservative trend of "loving them both" as an opportunity to save face and garner public support for his administration. Even with the "love them both framing," the administration's rhetoric continuously returned to a fetal-centric position in their anti-abortion policies. Helping women was an important stepping-stone to saving more fetuses. Here, we see a protectionist argument for women, where limiting their self-determination represented a way to undermine their agency and disrupt their protests. This strategy helps remove and undercut other obstacles impeding an anti-abortion

world.

First, and most obvious, “love them both” explicitly stated that women and unborn fetuses were helped by the Trump administration’s co-options of anti-abortion policy rhetoric for political gain. The 2016 GOP Party Platform stated that anti-abortion policies “affirm the dignity of women by protecting the sanctity of human life.” Because abortion “endangers the health and well-being of women,” the official platform stood “firmly against it.” It reinforced patriarchal logic by praising states that have anti-abortion legislation that “protect[s] women and girls” by requiring informed consent, parental consent, waiting periods, mandatory ultrasounds, and clinic regulation of hallway size. All of these unnecessary measures helped make abortion a right in name only and shut down numerous clinics across the nation. The GOP platform firmly stated that the Republican Party was “proud to be the party that protects human life and offers real solutions for women.”<sup>112</sup> Accordingly, Senator Ben Sasse (R-NE) argued that the GGR reflected “our heartfelt compassion for both moms and babies.” He stated, “We should also not forget the mothers because the pro-life message is about being both pro-baby and pro-mother.”<sup>113</sup> This quote makes women seem like an afterthought in the abortion equation, something they reluctantly have to address. The mother-baby frame was also indicative of how anti-abortion conservatives see women; women are always and potentially mothers and fetuses are living babies. “Loving them both” still meant that women were described through compulsory motherhood and fetuses needed to be protected from the harmful decisions of women and doctors.

The rhetoric of “love them both” also worked by framing abortion as a

horrific, immoral practice. On multiple occasions, Trump and other Republican congressional leaders touted that they supported a “culture of life.” Trump stated that a “culture of life is too important to let slip away for convenience or political correctness,” which the Democrats supposedly preferred over the “sanctity of life.” In a 2016 press release, Trump used antithesis to describe abortion as abhorrent. He stated, “Over time, our culture of life in this country has started sliding towards a culture of death.”<sup>114</sup> The “culture of death” imagery was strengthened by Trump’s other comments that “babies are ripped from the womb” in an abortion and feel “excruciating pain.” He stood firmly against “dismemberment abortion,” another sensational concept anti-abortion groups created to make abortion gruesome murder.<sup>115</sup> This rhetoric was unsurprising considering Trump typically steals strategies from former president Reagan.<sup>116</sup> When Reagan passed the Mexico City Policy in 1984, he described abortion practices overseas as “unnecessary and repugnant.”<sup>117</sup> Similarly, the No Taxpayer Funding for Abortion and Abortion Insurance Full Disclosure Act of 2017 described abortion as a practice Americans find “morally or religiously objectionable.”<sup>118</sup> The violent and graphic framing was particularly interesting as a “love them both” strategy, given Roberti’s argument that a pro-woman approach allows conservatives to appear “softer and more reasonable than the violent anti-abortion movement of the past.”<sup>119</sup> Attention to women was important and arguably made conservatives appear “softer.” Yet, the Trump administration and conservatives during the Trump era did not drop their violent language as a result. This is arguably because the shift to “softer” rhetoric was likely a political move meant to generate partisan support.

While women were more present in Trump’s rhetoric than some historical anti-abortion discourses, they still took a backseat to the fetus. Trump’s Acts about Pain Capable Children, Abortion Survivors, and Dismemberment Bans used appeals to fetal life to regulate abortion. When Trump’s “Pain Capable Unborn Child Protection Act” was blocked, he compared the United States to China and North Korea. He urged the Senate to reconsider its vote in support of “celebrat[ing], cherish[ing], and protect[ing] life.”<sup>120</sup> Similarly, Trump tried to pass the “Born Alive Abortion Survivors Protection Act,” which would protect “vulnerable newborns who survive an abortion attempt.” It sought to protect “children” who survived an abortion or attempted abortion. The argument behind this legislation was pure pseudo-science, but sounded alarming to the general public. He advocated for these “abortion survivors” to be treated like premature babies.<sup>121</sup> While women are not explicitly referenced here, the enthymeme demonizes women. Sara McKinnon explains that the “patriarchal suspicion of women [marks them] as dangerous” and untrustworthy.<sup>122</sup> Here, “Abortion survivors” faced death at the hands of someone who tried to kill them. The “someone” in this argument is women. Trump publicly argued that women should face “some form of punishment” for accessing abortion. Although he later backtracked on this argument and claimed he meant that doctors should be punished, not women, the enthymemes still implies that fetuses needed to be saved from women.<sup>123</sup>

Trump’s co-option of anti-abortion policy rhetoric also revealed a neglect for women’s overall healthcare. Trump’s PLGHA and Title X policies cut off comprehensive healthcare for women at home and abroad. These policies jeopardized

women's general wellbeing and health in the name of protecting the fetus and preserving the sanctity of life. In the Trump era, "life" almost exclusively refers to the fetus. Similarly, Trump intensified the GGR beyond President W. Bush's version of the policy, perhaps to punish women for speaking out against him. Bush wanted to help women with cervical cancer and HIV through his President's Emergency Plan for Aids Relief (PEPFAR) program. Trump repealed PEPFAR a few short days after the 2017 Women's March, a move that one former Bush official argued was intended to punish women for the embarrassment Trump faced from the March.<sup>124</sup> Sacrificing and punishing women cannot be considered a pro-woman agenda, even if Trump wanted to gaslight American voters into thinking he cared about women and immigrants more than everyone else.

Similarly, mentioning women in policy rhetorics as "mothers who are harmed by abortion" is hardly a pro-woman frame, especially when Trump's policies subjected women to abuse. "Love them both" collapses into rhetorics that stress loving babies and arguing that women are too ignorant to know that abortion is "harmful." Also" the language of "harm" was mobilized by both pro-choice and anti-choice groups. Antis argued that women and fetuses were harmed by abortion and that women were victimized by doctors. They argued that women's mental health suffers if they have an abortion while pro-choice people argued that women's mental health suffers if they *are denied* an abortion request. Conservative efforts to prioritize women and appear more reasonable were not upheld when women were still second to fetuses and were seen as engaging in immorality. Their healthcare was also sacrificed as necessary casualties in the fight for a pro-life nation that dehumanized

Brown women and the children they took from them. In the context of public charge and debilitation rhetorics, those who espoused “love them both” discourses also acted as if they cared about women, but the compassion was a facade. Instead, women were insulted as ignorant, selfish, or victims of Democrats and doctors. These discourses showed how the Republican Party used women to meet state objectives without actually caring about them or affording them agency.

Similarly, we saw women’s lives devalued through an analysis of “Baby Lives Matter,” an anti-abortion strategy co-opted by the Trump administration for political gain. Women not only took a backseat to the fetus, but women of color in particular had their race weaponized against them for choosing abortion and participating in “genocide of their own people.” Babies Lives Matter was just one of the latest tactics in a long history of conservatives appropriating progressive rhetoric, especially arguments about race and personhood. Progressives have hurled the argument that conservatives are intolerant or discriminatory and here we saw conservatives use abortion as a way to call out progressives for their “own discrimination”; the argument was that pro-choice people placed women over fetuses and were themselves discriminatory for “putting some lives over others.”<sup>125</sup> In the section below, I argue that anti-choice groups co-opted civil rights discourse and other progressive rhetorics to weaken pro-choice ideologies and garner support for their own positions. I analyze the strategy of dominant groups mimicking the language and identity politics of marginalized groups, which was ultimately in service in white supremacist and anti-choice agenda.

## **Race and the Anti-Abortion Movement: “From Black Lives Matter” to “Baby Lives Matter”**

Rhetorical appeals to race have been used as an anti-abortion tactic to shame women of color for choosing abortion care or supporting abortion rights. In the history of abortion discourse, dominant groups have repeatedly co-opted progressive rhetoric to undermine the force of progressive arguments. Antonio Gramsci explains that hegemonic groups require “gradual but continuous absorption” in order to survive.<sup>126</sup> They “violate their own laws,” “open up,” “appropriate,” and are sometimes “destroyed” to continue their power.<sup>127</sup> Particularly important for abortion and issues of race, dominant elites “hijack the moral potential for partisan ends.” The power to frame one’s position as *the* moral one is especially persuasive and helps ensure that these issues outlast other socially conservative causes that drift in and out of public vernacular and memory.<sup>128</sup>

For abortion, Holland argues that since anti-choice people rarely have first-hand experience with an abortion, they have to make the “political personal” instead of making the “personal political.” In order to galvanize the anti-abortion movement, activists had to make the fetus a “core part” of their identity. With this framing, when the fetus was victimized, they were also victimized. But at the same time, conservatives were allowed to play a position of the “moral middle.” This means that they were victims of pro-abortion rhetoric *and* were the ones prepared to save fetuses (and the nation) from such immorality. The victim-savior complex made abortion personal for anti-choice people and justified their rhetoric that they needed to save women, and especially women of color, from their own abortion choices.<sup>129</sup>

Antis therefore copied liberals in “rhetoric as well as strategy.”<sup>130</sup> For instance, progressives have advocated for women to have more choices over their lives, specifically for women’s right to bodily autonomy. Anti-abortion groups have co-opted “choice” to argue that fetuses deserve choices and a “right to life.” They have also argued that women who get abortions are selfish because of their choices. Similarly, anti-abortion arguments have mimicked historical progressive arguments about the 14<sup>th</sup> Amendment. Progressives used the amendment to advocate for citizenship and personhood rights for women and people of color, whereas anti-abortion groups have tried to steal this frame to argue that the 14<sup>th</sup> Amendment also grants rights to the fetus. Antis have also taken progressive arguments about enslavement to serve their ideological agenda.<sup>131</sup> Justin Buckley Dyer explains how many pro-life people believe that the nation will look back on abortion the same way we do enslavement; abortion will be a grave immoral sin in our country’s memory. These arguments play on progressive arguments about enslavement’s immorality and how forced pregnancy can be similar to being in a captive position. On the other hand, anti-abortion groups argue that the fetuses are “treated like slaves” because women are allowed to deny them personhood and autonomy through abortion.<sup>132</sup> Especially with abortion and race conversations, dominant anti-choice discourses main control by reacting and taking new shape against threats.

Conservative appropriation of progressive rhetoric shows how BIPOC women have been demonized by the anti-abortion movement as race traitors, participants in racial genocide, and eugenicists. Equating abortion with racial genocide amplified conservative rhetoric that compared abortion to the Holocaust and mass executions to

justify arguments that women were inferior citizens or criminals. Similarly, this strategy used race-talk as a tool for neutralizing arguments about the importance of reproductive healthcare for communities of color.<sup>133</sup> Anti-abortion rhetoric during the Trump administration capitalized on shaming women of color for choosing abortion by inverting the “Black Lives Matter” campaign into “Babies Lives Matter” discourse. These rhetorics framed abortion providers and women who seek abortions as the “true racists” and co-opted racial justice language to justify state control over women of color’s bodies.<sup>134</sup> Holland argued that civil rights rhetoric in particular was co-opted by anti-choice groups, who have built a mini-civil rights movement for fetuses. Similar to how progressives argue that in order for oppression to end, all people must be free, antis extend this argument to include fetuses. For them, oppression only ends when fetuses are also freed. They have worked for decades to “develop an unshakable political coalition of white people who spoke in the language of racial justice,” which allowed them to lay claim to the moral high ground and use the rhetoric of social justice to strip women and people of color of their bodily autonomy.<sup>135</sup>

Especially in summer 2020, Black Lives Matter (BLM) was at the forefront of much news coverage, political debates, and the topic of many interpersonal conversations. With the murders of George Floyd, Breonna Taylor, Daunte Wright, Ahmaud Arbery, and countless other Black people killed by the police, BLM “shook the world.” It was (and is) one of the largest social movements in United States history.<sup>136</sup> Trump was staunchly against the BLM Movement, calling it “racist” and treating its murals a “symbol of hate.”<sup>137</sup> At the same time the administration

demonized BLM, it co-opted BLM rhetoric to advance their white supremacist, anti-abortion agenda. In the height of the 2020 protests against police brutality and racism, the Trump website sold onesies that read “Babies Lives Matter.” They were written in the same script and style of the BLM logo.<sup>138</sup> “Baby Lives Matter” not only stole the rhetoric of BLM to weaken the former’s messaging, but it also inappropriately described fetal life as more important than the murders of actual, living people happening across the country.

Anti-BLM people commonly respond to “Black Lives Matter” with “All Lives Matter,” a racist slogan that clearly diminishes or ignores the oppression of Black people in America. The anti-abortion movement mirrored this language in order to sound like social justice warriors while “perverting” and “gentrifying” the intent of movements like BLM. Mike Moon from Missouri, for example, introduced the “All Lives Matter Act” in 2016, a bill which defined fertilized eggs as “persons.” This Act stated the life begins at conception and that embryos have the same rights as living, breathing humans.<sup>139</sup> The rhetoric here highlights the pathological contradictions at the heart of anti-abortion and pro-white discourses. Embryos were humanized and afforded more agency than women, especially non-white women. Executive Director of NARAL Pro-Choice Missouri, Alison Dreith, spoke out against the bill. She explained that “Reproductive health is intrinsically linked to racism and to the Black Lives Matter movement,” and legislation like the “All Lives Matter Act” showed that “the lives of women—and especially [B]lack women—do not matter to this legislator.”<sup>140</sup> Similarly, former Secretary of Housing and Urban Development Ben Carson (R-VA) compared abortion to enslavement and used BLM rhetoric to argue

that Americans should instead say “All Black Lives Matter” to include the lives “eradicated by abortion.”<sup>141</sup> These slogans mocked the messaging of BLM to shift the blame for racism onto people of color themselves; such logic suggested that they were the ones harming their own communities through abortion, not the police or institutions rooted in white supremacy.

Also, in the wake of the 2020 protests, anti-abortion groups erected billboards in Black communities to shame them out of choosing abortion and frame anti-abortion causes as pro-civil rights. Groups invested in murals and billboards across the nation, which read “Black Preborn Lives Matter.” A GoFundMe account raised over \$19,000 to construct signs across from Planned Parenthoods or in high-trafficked areas. Billboards and murals are common anti-abortion tactics, but these particular ones were placed in predominantly Black communities like Baltimore, Atlanta, Detroit, Philadelphia, Phoenix, and Charlotte.<sup>142</sup> The main group behind the 2020 murals stated that it “is a national tragedy, the loss of life within the Black community from abortion.” Pamela Merritt of ReproAction argued that this approach to shame Black people for abortions only appeals to white conservatives; this type of messaging was for white people to feel better about their racist activism. They can feel like they are saving Black people from themselves and avoid reckoning with their role in oppressing people of color. Holland explained the “Babies Lives Matter” and “Black Preborn Lives Matter” slogans as “an almost entirely white movement that is co-opting Black struggles in order to put the fetus into—to cast it in this light of this oppressed, murdered minorities.”<sup>143</sup> Similarly, Tayler Hansen, one of the key players behind the “Babies Lives Matter” billboards, referred to Planned Parenthood as the

“*true* [place where] racism is happening in America today.”<sup>144</sup> Rhetoric that describes the fetus as an oppressed minority was also present in Justice Clarence Thomas’ 2019 statement that abortion was an “act rife with the potential for eugenic manipulation.”<sup>145</sup> With Thomas and Carson, we see anti-choice Black people vilifying other Black people for supporting abortion. These discourses blame people of color for their own oppression and alleviate the responsibility of anti-racism work from white America.

As mentioned, co-opting progressive rhetoric is not a new anti-choice tactic; the anti-abortion movement has been working to frame abortion as a civil rights issue for decades. Framing abortion as enslavement or race genocide allows for white, anti-abortion groups to feel their position is the moral high ground. If abortion is enslavement, then white people can depict themselves as social justice warriors and abolitionists.<sup>146</sup> In the same sense, this framing makes women of color criminals who threaten the state, and the “true” ones harming Black and migrant lives. Some anti-choice groups recognize that eroding abortion rights does mean more unintended births to poor women in the near term, but they see it as a “necessary price of pro-life victory—with the lives of the babies themselves the reason that price is very much worth paying.”<sup>147</sup> At the same time, these people are usually the ones blocking state support for such children and uphold anti-life strands in a pro-life movement. This argument shows how BIPOC women and fetuses are framed as “necessary casualties” in a white supremacist, anti-abortion patriarchy. I do not intend to falsely equate the struggles of Black women and the migrant women at the forefront of this study. But the conservative strategies used to shame Black women are rooted in white

supremacist arguments that also curtail migrant's reproductive rights. Whiteness requires Black and Brown bodies to perform according to white patriarchal desires and anxieties over whites potentially losing power.

The explicit targeting of Black and migrant people fulfills a white supremacist agenda, which is in part, predicated on "replacement theory." White nationalist discourse about the "great replacement" was a fear-mongering tactic that told white people they were being replaced by people of color and nonwhite immigrants across the Western world. Replacement theory diminishes white women to their wombs and describes a woman's highest calling as having lots of white babies. The racism and sexism here show how replacement theory was an important component in upholding white supremacy.<sup>148</sup> Greg Johnson, editor-in-chief of the neo-Nazi magazine, *Counter-Currents*, blatantly stated, "Are you going to be the whiny little maggot who brings all of their [ancestors'] striving and struggles to oblivion? Because you just can't get your act together and decide to go off the goddamn pill or stop using condoms or whatever and just take the plunge and carry the race forward one more generation?"<sup>149</sup> Replacement theory blames white women for failing to contribute to the supremacy of white families. Tucker Carlson stated that the "biggest issue facing the country is collapse of families," caused by white women not reproducing as much as in recent decades. He also blamed many societal ills on women who earn higher wages than men (presumably their boyfriends and husbands) because they are damaging the family dynamic, emasculating men, and upending traditional gender roles. These arguments highlight how women's agency and freedoms become threats to white American patriarchy. The birthrate conversation and "the question that goes

with it of women's continued freedom" have been mobilized as key recruitment tools for white supremacists.<sup>150</sup>

Anxieties that white people will be replaced and outnumbered by communities of color leads to heightened control over BIPOC reproduction. Pathological contradictions in the anti-choice movement show how they work to reduce the number of Brown babies, arguing against immigration and citizenship benefits, while also denying Brown women abortion rights. They force births but deport them and or subject them to dehumanizing conditions. Their reproduction needed to be controlled in order for white supremacy and patriarchy to maintain hegemony and to ensure that white people had power over what happens to the bodies (and children) of women of color. As such, reproductive control sometimes meant limiting nonwhite people's abortion rights. White supremacists fear replacement, but they still want to shame and guilt people of color out of choosing abortion. Jean Hardisty and Pam Chamberlain argued that the far-right cannot advocate for people of color to have abortions, even if they are threatened by their reproduction. This is because "public advocacy for abortion for women of color might alienate potential far-right supporters who oppose all abortion." Therefore, white America operates by hyper-controlling the reproduction of women of color and implementing other debilitating tactics like eroding social welfare programs or blocking citizenship rights in order to deter non-white birthrates.<sup>151</sup> Anti-abortion tactics like "Babies Lives Matter" publicly vilify women of color to turn people of color against each other and keep communities isolated and more vulnerable.

"Babies Lives Matter" also affords undeserved legitimacy to the notion of

sex-selective abortions, where people choose to abort because of the fetus' race, gender, or potential disability. Representative Charlie Collins (R-AR) argued that it was necessary to create legislation banning sex-selective abortions because of the increased immigration rates in Arkansas. For him, Northwest Arkansas was becoming overrun by women from cultures where selective abortions were "prevalent."<sup>152</sup> His ban was deemed unconstitutional, but it was also unnecessary and racist. It used the history of forced sterilization and anti-natalist regimes against people of color. The racist reasoning behind this type of legislation denied women of color the same access to abortion as white women and stigmatizes patients of color. It also undercut the economic empowerment of such groups, which reinforces their marginalization. Mona Eltahawy explains that today's white nationalists echo their eugenic forebearers' obsession "with falling birthrates, and by extension they are obsessed with the recruitment—and control—of women's wombs."<sup>153</sup> These discourses describe controlling women of color's reproduction as the key to solving America's social problems, even as they reproduce the racial hierarchies they purport to disrupt. Here, "what America stands for is based on a concern for the fetus of color," justifying a racist ideology that women need bodily surveillance to promote the wellbeing of the nation.<sup>154</sup> Dorothy Roberts argues that these discourses falsely transcribe racial inequality as a product of nature, rather than of power.<sup>155</sup> A key component of pathologizing migrants was predicated on the notion that people of color are inherently lesser than white people. Without supervision, they might act reckless or do something that could endanger the nation or white power.

This discussion shows how legislating and regulating abortion rights sustains

white men's power over others. Alex DiBranco writes that because of this, white supremacists, anti-abortion groups, and Christians often put aside their differences and the contradictions embedded in their ideological platforms in order to defeat a common enemy. Here, many of these people have the same goal of eradicating abortion, controlling migrants, and preserving white supremacy. Regulating abortion becomes the pathway to control over the most vulnerable.<sup>156</sup> "The core pro-life position—not that abortion should be a little more regulated or a little more culturally disfavored, but that it should be truly forbidden in almost every case" keeps white men in charge of women's bodies, especially the bodies of women of color, and ensures their subordination.<sup>157</sup> As Representative Steve King (R-IA) said, "We cannot rebuild civilization with someone else's babies."<sup>158</sup> The struggle for complete control over women's reproduction infused rhetorics of anti-abortion, nationalism, and white supremacy.

### **Conclusion: A Hero in Trump's Own Story**

As shown, the Trump administration institutionalized reproductive punishments for migrant women outside of the ORR and ICE. His policies pathologized migrants as public charges who deserved abuse because of the threat they posed to the American taxpayer and to a white supremacist patriarchy. Their healthcare and humanity were subjected to debilitating rhetorics and policies that dehumanized them and made them suffer, physically and emotionally. Migrants were framed as necessary casualties in upholding white supremacy and patriarchy and expelling threats to total hegemony. In addition, migrant lives were secondary to fetal development. Even with "love them both" rhetorics, women (especially women of

color) were pawns in an anti-abortion and anti-woman message. Rhetorics that seemed to care about women's interests and autonomy were lip-service meant to keep women complacent. The administration could act like women mattered to them and to the state, while stripping their rights at every turn. Similarly, the administration further vilified abortion rights for people of color by labelling them as murderers of their own people. In this view, migrants and BIPOC people oppressed themselves through abortion and were traitors to their own race. The fetus as the new oppressed minority detracted from causes like Black Lives Matter and gave credence to anti-abortion and racist policies.

The anti-abortion platform thus is used in service of an anti-migrant, anti-Black and Brown people agenda. Similarly, many argue that white supremacist arguments are also sexist, which integrates racism and sexism. These issues overlap and in spite of the hypocrisies, the contradictions work because they reify the racism, sexism, and xenophobia of conservatism. Angie Maxwell and Todd Shields explain that the “trptych of white supremacy, religious fundamentalism, and patriarchy” are deeply intertwined and well-connected. They reinforce one another and overlap in service of reinforcing white supremacy as a unifying framework.<sup>159</sup> Conservatives ignore the contradictions because the unifying ideologies of white supremacy and patriarchy and their traditional arguments helps strengthen their political base.

Some anti-abortion advocates believe that Trump helped “ruin” the contemporary anti-abortion movement with his extremism, but many also believed that he “centered and revitalized” the movement.<sup>160</sup> Although Trump's anti-abortion statements were rarely rooted in fact, they were sensational and provocative. Trump

deployed junk science when he argued that fetuses feel pain at 20 weeks, equated abortion with infanticide, and argued during a globally televised debate that abortion doctors were legally allowed to execute babies after birth. Decades of intense violence against abortion clinics and the fact that many of the insurrectionists on January 6, 2021 were members of anti-abortion extremist groups helped us get to a climate where accessing abortion means exposing oneself to immense violence.<sup>161</sup> Trump's co-option of violent rhetoric towards abortion and towards migrants was dangerous because it "emboldened ideologies that turn into real life violence, making America a more dangerous place for all of us and particularly the communities Trump targets."<sup>162</sup> Trump's capitalization on incendiary and inflammatory rhetoric incited violence and institutional neglect targeted at non-white bodies and those supporting abortion rights.

Trump also framed himself as the hero in the story to save America from immigrants and abortion. He argued that, "People wouldn't be talking about illegal immigration had I not brought it up when I announced I was running for president."<sup>163</sup> Trump touted his endorsement from Border Control, which argued that Trump was the "only candidate supporting [their] mission and [their] agents."<sup>164</sup> Trump also bragged about being the first president to speak at the March for Life in Washington, D.C.<sup>165</sup> His "accomplishments" were rooted in the dehumanization, debilitation, killing, and neglect of real people, particularly people of color, women, and LGBTQ+ people. Trump may be the hero in his own story, but he was (and is) the villain in many communities. The generational trauma he helped inflict on migrant communities cannot be erased with a new president. His three Supreme Court

justices and litany of pro-life judges on lower courts will ensure that *Roe v. Wade* is a thing of the past. Trump may no longer be president, but in many ways, we are still living in a Trumpist world and likely will be.

## Notes for Chapter Two

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<sup>14</sup> Amanda Roberti, “‘Women Deserve Better:’ The Use of the Pro-Woman Frame in Anti-abortion Policies in U.S. States,” *Journal of Women, Politics & Policy* (2021): 11.

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<sup>131</sup> See: Condit, *Decoding Abortion Rhetoric*.

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Chapter Three: “An Incredible Amount of Energy”: Reproductive Justice, Brown Women, and Resisting the Trump Administration

“It seems like a dark time, and it is because the threats are very real. But there is also an incredible amount of energy and motivation right now, and that should give us all hope.” - Kelly Baden, Center for Reproductive Rights<sup>1</sup>

“It’s not just abortion for abortion’s (sake) that is fundamental... There is also a vision behind it, a way of working, of organizing ourselves.” - Crystal P. Lira, Activist working for Feminist Accompaniment-Tijuana Safe Abortion Network<sup>2</sup>

Three primary “case studies” provided a glimpse into how America faced a pre-*Roe* world, even before the case is officially overturned.<sup>3</sup> First, many feminist scholars have marked the rise of Targeted Regulation of Abortion Provider (TRAP) laws in the 2010s as severely debilitating and eroding abortion access across the country. Republican-controlled state legislatures passed “hundreds of laws constraining and rolling back reproductive rights that legislatures and courts had previously defined and protected.” These laws shut down numerous clinics for cop-out reasons like hallway length and preventing clinics from being located near schools.<sup>4</sup> Second, detained and incarcerated pregnant women discussed in Chapter One also lived pre-*Roe* lives as they were reproductively choiceless, powerless, and dependent on state decisions and immigration policies.<sup>5</sup>

And third, government shutdowns in 2020 from the Covid-19 pandemic provided a looking glass into a post-*Roe* world. Numerous clinics were shut down in the name of “public health,” but Robin Marty argues that this framing is better characterized as “political opportunism.”<sup>6</sup> Anti-abortion groups achieved their goal of shutting down clinics and took the moral high ground by arguing that they were protecting the public from a deadly disease. The pandemic “abortionpocalypse”

encouraged abortion advocates to go on the offensive, recruiting new members, further developing their online presence, services, and providers, and adding new privacy features.<sup>7</sup> Despite massive closures, the pandemic helped catalyze abortion rights activism because women still needed abortion access even with a surging Covid-19 crisis.

Until this point in the project, I have argued for the negative effects of rhetorical pathology and how it dehumanized migrant women. I have stressed the power of rhetorical pathology, including the difficulty in reworking pathological characterizations once they have been assigned to a group of people. Rhetorical pathology is sticky, dangerous, and gets seared into the minds of the public. It is difficult to neutralize rhetorical pathologizations, but not impossible. In this chapter, I shift the project to focus on activist strategies that helped dismantle and disempower pathological characterizations of migrants and abortion.

Susan Sontag and Nathan Stormer share this perspective; it is possible, but a complicated process, to undermine rhetorical messaging that associates a group's identity with illness or blames them for the downfall of society. Sontag is more optimistic. She advocates for pathological characterizations to be "exposed, criticized, belabored, [and] used up" in order to strip them of their power (what I have tried to do in Chapters One and Two). For her, it is "worth challenging" pathology, and the struggle for rhetorical ownership over what types of people are pathologized and who gets to assign pathology onto Others.<sup>8</sup> Analyzing and dissecting the language of political paranoia helps us assess how identities are negotiated through pathology.

Stormer agrees that it is possible to neutralize pathology because society is constantly changing (the Covid-19 pandemic and war in 2022 showed us this clearly). He recognizes that much rhetorical power depends on who is producing the discourses that people listen to. Pathological frames *can* also be manipulated. For instance, shrouding migrants in secrecy is a crucial factor of pathology, so prioritizing their voices and sharing their stories can help ameliorate some pathological power. Stormer states, “I assume that abortion does not have to tell us about who we are or where we are in time.”<sup>9</sup> However, he does state that “a new rhetoric” is required. It is about forgetting that issues like abortion and immigration were pathologized in the first place, and that begins “when the conditions of ending pregnancy are no longer a sign of pathology.” For him, more complete reframing and reworking of how we have thought about certain political and social issues is necessary.<sup>10</sup> Although the challenges are daunting, rhetorical work can help rewrite and weaken pathological characterizations.

In an ideal world, complete reframing would not be such a difficult task. Perhaps everyone could critically assess controlling images and pathological characterizations. But since this is not the world we live in, I approach the activist strategies used to combat pathology as tools to *help*. They are not cures for pathology or perfect fixes. Instead, they were incremental steps used to combat harmful framing about abortion and migrants. These strategies worked by flipping common principles of pathology on their heads. First, both Sontag and Stormer recognize that rhetorical pathology is shaped by the people in power who get to decide what types of people

are pathological. To combat this characterization, Brown women activists centralized migrant experiences and voices, which reclaims the rhetorical power of definition.<sup>11</sup>

A LatCrit lens highlights how narrative strategies empower migrant women to produce and shape discourses about themselves, rather than through oppressive regimes like the Trump administration who characterized migrants according to white supremacy and patriarchy. Brown women activists worked to transform conditions of struggle into conditions of empowerment. They emphasized how society improved with choices, access, and diversity. The rampant harm embedded in American reproductive politics could be turned into a model of care, if led by women and for women. This model would improve women's healthcare and weaken pathological characterizations. What if increased abortion access and more open migration was seen as a measure of feminist and anti-racism progress, not a pathological indicator of society's moral downfall?

Brown women activists defining themselves and their stories on their own terms combatted pathology and strengthened their rhetorical power of definition. The rhetorical power of definition was connected to rhetorical secrecy, another tool used to pathologize communities.<sup>12</sup> Secrecy was often mobilized against Brown women—their stories were purposefully hidden or excluded from media attention, and they were talked about like dangerous substances and forced into the shadows facing deportation or incarceration. However, secrecy was empowering when it is used on Brown women's own terms. For instance, whisper networks, informal chains of information passed privately between women, protected and empowered Brown women. Brown women gained community and had more choices in whether they

wished to keep their stories and experiences private, or share them with other women.<sup>13</sup> Here, secrecy was a form of feminist protection. Mobilizing the rhetorical power of definition and secrecy centralized Brown women's power in the fight for how pathological frames are argued and possessed.

In this chapter, I analyze the resistance strategies of Brown women activists opposing the reproductive oppression that the Trump administration advanced.<sup>14</sup> I cannot discuss all strategies or all activist organizations, but I provide markers of attention that help give insight into how people spoke back to Trump and resisted his anti-abortion and anti-immigration agenda.<sup>15</sup> I argue that on the one hand, contemporary Brown women activists relied on historical methods of exercising reproductive autonomy. Since women have likely been controlling their reproduction in even ancient and primitive societies, activists during Trump tapped into historical and cultural memories of practices their ancestors used. This was especially true for communities of color who faced eugenics, forced sterilization, sexual assault, etc., and had to take reproduction into their own hands. Historically, women have relied on underground networks and word-of-mouth to help women find aid in their communities. These strategies were also used by Brown women activists and were increasingly important under conservative leadership and with mass abortion clinic shutdowns due to Covid-19.

Brown women activists also responded to community needs and adapted to contemporary resources, like social media and online forums. For instance, the Hyde Amendment cuts off Medicaid funding for abortion, particularly affecting low-income women, women of color, and migrant communities.<sup>16</sup> Because cost was a

huge barrier to abortion access, Brown women working for organizations like the Mariposa Fund and Access Reproductive Justice adapted the historical strategy of creating abortion funds to help women pay for the procedure, after care, childcare, or whatever they might need throughout the process. It has been common for organizations to fundraise for abortion, but abortion funds in the twenty-first century looked different given social media, Venmo and CashApp, and instant online donations.<sup>17</sup>

Although some activist strategies were historically-based, other strategies demonstrated their timeless versatility and adaptability. Medication abortion, and being able to access this service through the mail and see doctors online, greatly changed the rhetorical and political terrain of abortion activism. In addition, internet forums including Instagram pages, TikToks, Reddit threads, and more, were newer ways to spread awareness to Brown women who might need an abortion or know someone who does/will. In recent years, clinics have fewer doctors and available appointments and are long distances from many women's houses, that is, if they are not shut down. Brown women's abortion activism is deeply concerned with raising awareness about abortion networks and garnering funds to help Brown women navigate the financial barriers to abortion access, even in the comfort of their own homes.

Brown women had to find their own ways to access abortions in Trump's hellscape, but a key part of opposing Trump was to oppose him legislatively. I would be remiss not to discuss the pro-migrant legal activism present during the Trump administration. This is especially important given the fact that most lawyers working

in the immigration debates at the U.S.-Mexico border were women.<sup>18</sup> In the case of Jane Doe, a number of lawyers and legal aid organizations like the ACLU came to her defense. Not only did they generate much discourse about her being denied an abortion and the abuses of the ORR, but they helped create legal precedent that allowed other young women in custody to access abortion care.

We saw Brown women activists working outside the system to create their own rules and standards and working within institutions alongside politicians to change the laws that targeted their reproduction. The changing landscape of abortion rights and the omnipresence of social media posed a new dilemma for conservatives who wanted to control Brown women's bodies; Brown women who had abortions by themselves and in their own homes were particularly threatening because they were much harder to control. In what follows, I first discuss the landscape of anti-Trump activism in the United States and specific measures that Brown women activists wanted to change, like the Hyde Amendment. Then, I argue that they helped de-pathologize migrant identity by asserting the rhetorical power of definition. Brown women emphasized narrative strategies in articles, press releases, books, community flyers, letters to legislatures, and in other mediums. They also promoted a *promotoras* model of care for reproductive healthcare, a model where members of the community were educated and trained to serve the health needs of that community. In addition, they also used abortion funds to help Brown women access abortion. Next, I discuss how Brown women activist groups mobilized secrecy as a tool for empowerment through reappropriating criminality and through whisper networks, online forums, and abortion pill distribution. And finally, I analyze the rhetoric of key pieces of

legislation introduced during the Trump administration to advance migrant women's reproductive autonomy. To combat the harm of rhetorical pathology, pro-migrant legislation in response emphasized treating migrant women with "care," "healing," and "dignity."

### **Migrant Women and a Brief History of Latina Reproductive Activism**

As shown in the introduction to this project, women of color have been helping each other have abortions long before the practices were legislated. They have been heroes and warriors in the reproductive rights and feminist movements, but their contributions have been largely "undocumented, unanalyzed, and unacknowledged."<sup>19</sup> Historically, women of color have done the work. White women, however, typically earn the credit and take over as leaders and faces of movements. Racial politics are important here considering the fact that most of the anti-abortion movement is white and white women supported Trump through both of his bids for the presidency. Approximately 47 percent of white women voted for Trump in 2016 and 55 percent of white women voted for him in 2020.<sup>20</sup> Many white women are more concerned with protecting their white privilege than fighting for women's equality. In addition, as I argue in Chapters One and Two, migrant women were pathologized for their immigration status and because of their Brownness, in general and especially in terms of their reproductive rights. Migrant women's oppression shows how racism and misogyny were blended in rhetorical pathology to justify total reproductive control over them. As Dorothy Roberts argues, the fight for all women's reproductive freedom begins by focusing "on the connection between reproductive rights and racial equality."<sup>21</sup>

For Latinas, there is sometimes an assumption that they do not care about reproductive justice and abortion rights because of strong community ties to Catholicism. Elena R. Gutiérrez argues that Latinas are described as either sexually repressed or hypersexual. They have to reconcile white stereotypes about “exotic” women with biblical representations of chaste, Madonna women, through what is known as the “Madonna/whore dichotomy.” In either case, Latinas are framed as “incapable of using birth control,” which warrants state, medical, and social intervention into their bodies and choices.<sup>22</sup> Although Catholicism helped shun and outlaw abortion, many Latinas still support reproductive autonomy. There is not, of course, one singular Latina stance on abortion and reproductive politics, but a distinctive Latina reproductive rights platform emerged “in the more formal, national-level organizations during the 1980s and 1990s.”<sup>23</sup> In *Undivided Rights*, Gutiérrez cites numerous studies that support the fact that Latinas are consistently pro-choice; they are also disproportionately likely to have an abortion, accounting for 20.1 percent of all abortions and are 2.5 times more likely to have an abortion than white women.<sup>24</sup> These statistics translate into electoral politics. Of Latina voters today, 82 percent believe that women should make their own decisions about abortion and other reproductive options.<sup>25</sup>

In a similar vein, a Chicana feminist consciousness was developed in part by fighting the Chicano “Nationalist narrative, which prescribed that [women’s] role in the revolution was to produce lots of brown babies.”<sup>26</sup> Despite efforts to exclude women’s issues from the Chicano movement, women organized the first National Chicana Conference in Houston, Texas, in May of 1971. The conference prioritized

abortion, birth control, marriage, and other feminist concerns. In October 1989, a group of Latina community leaders formed the Latina Roundtable on Health and Reproductive Rights (LRHRR), organized out of growing concerns about attacks on Latinas' reproductive rights.<sup>27</sup> Similarly, the National Latina Health Organization stated in 1990 that they wanted to “break the silence on reproductive rights issues within the Latina community.” Latina organizers took their first public position defending abortion services in the community when they counter-organized against Operation Rescue in the South Bronx in July 1992.<sup>28</sup> Shortly after, in 1994, the National Latina Institute for Reproductive Health (NLIRH) became the first independent national organization for Latinas on reproductive rights issues. They were not driven by a top-down approach, but were guided by the needs and perspectives of Latinas on the ground. The NLIRH also connected health practitioners with the community through the *promotoras* model, discussed later in this chapter.<sup>29</sup>

Working with the community was vital to the success of these organizations. Dr. Helen Rodríguez-Trías argued, “The ingenuity of women in grassroots community organizations was the main factor enabling the continuation of reproductive health services to women.”<sup>30</sup> While there was a litany of organizations that formed in recent decades, they all had a similar mission of “Latinas helping Latinas” and achieving their goals on their own terms. Because they defined “themselves through race and ethnicity,” Latina organizations created spaces that “nurtured their activism” and strengthened community ties.<sup>31</sup> They did political and community work, but a key motive for their organizing was to create spaces to help people find their voices as women of color. They recognized that this emotion work

was liberatory; it helped connect Brown women across generations and differences and framed political issues in ways that resonated with themselves and their communities.<sup>32</sup>

### *Making an Activist*

Discussions about reproductive health are rarely women-centered.<sup>33</sup> (White) men have historically held the rhetorical power to define and legislate abortion and determine its implications for society. They have also helped frame abortion and women's reproductive autonomy through pathology. While they do not normally use the word "pathology," women's reproduction in general is discussed in terms of solving "large social problems facing the country" by regulating reproduction of certain populations.<sup>34</sup> We see conservatives especially using Brown women's reproduction for population control and as social and economic problems that need to be controlled in support of the public good. To combat pathological imagery of women's reproduction, much activist rhetoric thus frames reproduction, motherhood, sex, and gender as matters of "self-determination and human rights, claiming power for themselves."<sup>35</sup> Migrant and Brown women's abortion activism emphasizes women's autonomy and creates more feminist women who stand contrary to the conservative ideologies that Trump capitalized on during his administration. Not only was supporting migrant women's abortion rights contrary to Trump's agenda, but the type of woman who would advocate for such rights was also vilified. In particular, activist women who were typically assertive, opinionated, and feminist were "nasty women."<sup>36</sup> Some Trump supporters went as far as to argue that women's suffrage rights need to be repealed.<sup>37</sup>

Brown women activists confronted Trump's terror with their own political agenda. Many outspoken activists like Alejandra Pablos, Daniela Vargas, and Claudia Rueda, were punished, detained, and silenced for speaking out against Trump. ICE went after them after they gave public speeches, attended rallies, and marched against Trump, throwing them into detention or serving them deportation orders.<sup>38</sup> Brown women activists like Pablos stated that she was fearful of her future, but felt it was necessary to tell her story and speak up for her people.<sup>39</sup> They were under attack and mainstream feminism was not accurately representing their needs and struggles. For instance, many women of color-led organizations do not readily use the "pro-choice" framing and instead prefer to be known as "reproductive justice" advocates. A reproductive justice (RJ) framework focuses on the autonomy and reproductive agency, particularly of women of color in marginalized communities. RJ examines the environments in which people make reproductive decisions. Women of color have long called-out the term "pro-choice" for not representing their lived realities and the circumstances they face. What is "choice" when communities are under attack? The right to not have children must accompany the right *to* have children in healthy and safe environments.<sup>40</sup>

Echoing this, The National Latina Institute for Reproductive Health (NLIRH) stated that "pro-choice" is an English term "defined within a narrow U.S. context that often doesn't resonate with immigrant communities."<sup>41</sup> RJ is "purposely controversial" in that it "disrupts the dehumanizing status quo of reproductive politics" by centering communities of color.<sup>42</sup> In brief, RJ moves from the politics of inclusion to the politics of leadership, frames itself as building a collective history,

and prioritizes women of color's leadership in the movement ideology.<sup>43</sup> As a term, RJ gains popularity and encourages people to study what it is when they see a "reproductive justice" advocate on television, social media, or in the news. RJ is also useful for this chapter as activists who subscribe to this approach argue that it is not enough to argue for what they are against; they must also articulate what they are *for*.<sup>44</sup>

In addition to reproductive justice framing, it is also worth iterating the importance of LatCrit and feminist lenses in studying women activists. Both feminist and LatCrit lenses have an activist dimension. These approaches can be used to interrogate whiteness, patriarchy, and how they are intertwined with other systems of oppression like capitalism and nativism. They leverage broader thinking about oppression and subordination that is reflected in activism, theory, and other practices.<sup>45</sup> Daniel G. Solorzano and Dolores Delgado Bernal argue that LatCrit highlights the liberatory or transformative responses to race, class, gender, and nativist oppression,<sup>46</sup> which helps us better understand the work of reproductive justice and migrant rights activists. LatCrit also was created to analyze legal injustices against Latina communities and helps illuminate the connections between law, activism, education, theory, identity, and practice, discussed in the latter half of the chapter.<sup>47</sup>

### **Increased Activism Under Trump**

The first year of Trump's presidency saw historic levels of protests against his administration and political agenda.<sup>48</sup> Notably, the day after Trump's inauguration, on January 21, 2017, millions of people participated in a Women's March. I do not

specifically analyze the Women’s March here, but some of the most important issues for protestors were advocating for women’s rights, gender equality, and reproductive rights.<sup>49</sup> Feminist organizations such as Planned Parenthood, the ACLU, and the Center for Reproductive Rights also reported increases in membership and donations directly after Trump’s inauguration.<sup>50</sup> In addition, The Center for American Women and Politics reported a record number of Latinas ran for congressional office in 2020, arguably as part of an anti-Trump backlash.<sup>51</sup>

Trump’s presidency was the first time some people paid much attention to political issues because of his egregious rhetoric, but some scholars argue that resisting Trump was an easy rallying point for activists (including first-time activists). Avigail McClelland-Cohen and Camille G. Endacott argue that resisting or impeaching Trump were clear and “concrete” problems that could galvanize people to action. It was easier to rally around blocking Trump’s agenda than trying to unite people against a broader concept like combatting misogyny. Trump was a clear target for feminist and racial justice outrage; fighting him symbolized fighting social injustices like xenophobia, sexual assault, gender oppression, racism, and homophobia. In many ways, resistance against Trump generated its own social movement.<sup>52</sup> Anti-Trump activism garnered all types of supporters across generations, backgrounds, cultures, genders, sexualities, and political experience.

*A Key Political Fight for Migrant Women: Repealing The Hyde Amendment*

The Hyde Amendment represents an important context to help us understand migrant women’s activism during the Trump Administration, which tried to make the 1976 amendment “permanent.”<sup>53</sup> Many activists stress that abortion needs to be

affordable and that the sheer price of the procedure (or pills) and its associated costs make abortion legal in name only for many women. The Hyde Amendment, enacted in September 1976, prohibits the use of federal funds for abortion for women on Medicaid except in the therapeutic cases of incest, rape, or when the woman's life is in jeopardy. Despite exemptions for therapeutic cases, it can be difficult to prove rape and incest because of a variety of circumstances like intimidation, police incompetence, etc., and Medicaid paperwork can also be complicated. Amanda Dennis and her colleagues' study of healthcare providers found that they too, often have difficulty navigating the Medicaid reimbursement system. Medicaid is the largest health insurance program in the United States, but "complex paperwork requirements, inconsistent support from Medicaid when filing claims, and frequent inappropriate denials of submitted claims" make it substantially more difficult for English as second language or undocumented peoples to navigate.<sup>54</sup>

The initial version of the Hyde Amendment (1976) was limited to Medicaid restrictions, but it was amended further to restrict funding for women in the military, Peace Corps, federal prison, and on Indian Health Services. The Hyde Amendment was passed as an amendment to the annual appropriations bill for the Department of Health, Education, and Welfare, a move that many reproductive justice scholars viewed as a "backdoor" attempt to circumvent abortion after *Roe* had recently passed in 1973.<sup>55</sup> The amendment remains controversial for how it was enacted and for whom it particularly affects. It ensures that many low-income women, predominantly migrant women, disabled women, women of color, and similar backgrounds, cannot afford to access abortion. It is a punishment for being poor that greatly divided

abortion access in the United States and still plagues women seeking care today.

In this view, abortion is a right only for those who can afford it. Abortion has also been politicized into an expensive procedure in the United States—one that could bankrupt or cause severe financial distress for certain families. Without insurance, a first trimester abortion is about \$470, that is, if a woman lives in a state that does not make her pay for a mandatory ultrasound, which could cost another \$200. The average cost of a second trimester abortion at twenty weeks is on average \$1,500. Cost especially matters given the fact that 42 percent of women accessing abortion have incomes below 100 percent of the federal poverty line.<sup>56</sup> Not only does the Hyde Amendment particularly affect women of color, but it was created with them in mind. Senator Henry Hyde (R-IL), who authored the amendment, said it would only impact “little ghetto kids,” but wished it would eradicate abortion entirely.<sup>57</sup> In addition, Rosie Jimenez, a Mexican-American woman and the child of migrants, is recognized as the first “victim” of the Hyde Amendment in activist circles. Without Medicaid coverage, she could not afford an abortion in the United States. She was forced to have an illegal procedure that she did not survive.<sup>58</sup>

Because of whom is most affected by Hyde, many women of color formed reproductive justice organizations to repeal the Hyde Amendment. Some include it as part of their mission statement and others are almost solely devoted to ending Hyde (e.g., All\* Above All). Activists have brought the Hyde Amendment to the forefront of many abortion debates in recent years, inspiring two of Trump’s opponents in the 2016 election to call for an end to Hyde. Both Hillary Clinton and Bernie Sanders publicly supported ending the Hyde Amendment in the name of ensuring more equal

abortion access for all women.<sup>59</sup> Repealing the Hyde Amendment would help remove financial and logistical barriers to abortion access that disproportionately affects women of color and low-income women. It would also be a major step in protecting future abortion access for migrant women as well.

*The Fight for Migrant Women: Playing Offense or Defense?*

As with other scholars, I make the case that too many pro-choice advocates have been “playing defense” in recent decades, with activists and progressive presidents failing to play offense in the abortion battles. For instance, some pro-choice groups are working to staff clinics. Although important for abortion access, these acts pale in comparison to the conservative strategy of ramming legislation through Congress that severely repeals abortion rights and shuts down clinics across the nation.<sup>60</sup> Contemporary abortion politics has positioned anti-abortion groups on the “offensive, where they get to experiment with the limits of abortion policy in friendly state forums and dictate the parameters of the conflict.” The antis are playing a long game to eventually target *Roe*, while pro-choice groups have been fighting a war of attrition, hoping to survive another attack.<sup>61</sup> Particularly under Trump, resistance for liberation pivoted more towards resistance for survival. The circumstances were direr, which made “complete bodily autonomy” harder to attain when people were worried about day-to-day violence.

To the credit of Democrats, it *is* easier to oppose a policy than to advance one, but easy should not be the aim.<sup>62</sup> The anti-choice movement has been gaining momentum to eventually target *Roe v. Wade* for decades. Women in half the country have to leave their state to obtain an abortion or are forced to have one at home.<sup>63</sup>

They have been forced to create “gray markets” to deliver abortion pills to people’s doorsteps.<sup>64</sup> The Associated Press explained that decades ago, Mexican activists shuttled women into the United States for abortions, but in recent years, the opposite has been true. Especially after Mexico decriminalized abortion in 2021, more Mexican women have been helping women in America get access.<sup>65</sup> The more restrictive and oppressive the United States becomes, the more women have to travel across borders.

The tensions here are rhetorically interesting considering the fact that pro-choice ideologies almost always win in public opinions polls. According to Gallup polling, since 1975, “at no time has banning abortion rights exceeded 23 percent support” among voters.<sup>66</sup> Yet, conservatives continue to win at the ballot box, especially with rhetorically-sensational wording in their bills like “partial-birth abortion” and “dismemberment abortion.” Such terms are not rooted in scientific fact, but can sway low-information voters. “On the whole, the pro-life contingent controls the narrative” and puts Democrats on the defensive.<sup>67</sup>

Because the pro-choice movement has been losing legislatively, more women have had to take matters into their own hands and figure out non-clinical ways to access abortion. Many abortion activists were tired of losing. Marty stated, “People have so much fatigue when it comes to ‘This is the worst. No, now this is even worse. Oh wait, this is even worse than that.’”<sup>68</sup> Many activists were prepared to fight the Trump administration’s reproductive injustices by using strategies that were made by Brown women for Brown women. These tactics included redefining the fight by staking claim to the rhetorical power of definition through narrative. They also

reclaimed power with abortion funds and through the *promotoras* model of care.

### **Rhetorical Power of Definition**

Rhetorical power acts as a pathological tool when migrants and women have their stories and identities defined for them, but it can be empowering and life-affirming if they are agents in their own stories. In his study of presidential rhetoric, David Zarefsky explains that “definitions” affect what “counts as data for or against a proposal, highlights certain elements of the situation for use in arguments and obscures others, influences whether people will notice the situation and how they will handle it, describes causes and identifies remedies, and invites moral judgments about circumstances or individuals.” Put simply, rhetorical definition is the “art of structuring the world so you can win.”<sup>69</sup> It can be conscious and explicit like when Trump intentionally defines migrants as “criminals” and “leeches” to the American system. Or it can be more instinctive, like giving voice to certain ideological commitments.<sup>70</sup>

Importantly, rhetorical power over definition provides the terms by which people think about an issue.<sup>71</sup> To combat pathology, migrant women asserted rhetorical control by narrating, framing, and controlling their own stories. They were the authors, agents, and speakers. Patricia Zavella explains that reproductive justice advocates are “mindful of the power of representation” and view being in charge of framing as “critical for generating long-term change.” Advocates use the rhetorical power of framing to “articulate dissent and present new perspectives in ways that create shared identity.”<sup>72</sup> Migrant abortion narratives therefore were a key rhetorical strategy in combatting Trump terror and putting a human face on the pathological

characterizations hurled at them. Narratives helped position migrant women as narrators and valued their perspectives and expertise. Narratives ensured that migrant women had more control over how their identities were negotiated, argued, and possessed. Migrant women reclaimed rhetorical ownership over their stories and their identities by using narrative to assert their power over definition.

### *Narrative Strategies*

Narratives are commonly used in abortion activism to accentuate the unique struggles women face because of their gender, race, class, age, and nationality. Narrative has a long tradition in women's social history. It connects women's struggles across time, generations, and historical contexts and values women's expertise. Narratives also show us the long struggle for women's autonomy and the many women who made the current moment possible.<sup>73</sup> Narratives are also important for political organizing, especially in abortion discourse. Narratives help express the warrant, or the "why," behind organizing and act as rhetorical bridges in building movements for social change.<sup>74</sup> Also, when narratives are presented together, women's stories are more connected and appear as a collective power. This strategy helps destigmatize abortion and prevents seeing women's stories in isolation. Narratives build momentum for social change and are particularly important for oppressed peoples, acting as invaluable tools for the "safety of marginalized people who are deliberately kept isolated by those in power."<sup>75</sup>

Also, because abortion is highly stigmatized and difficult to access, talking about abortion publicly or in close interpersonal circles can be incredibly powerful. Sharing one's abortion story publicly was popularized through the speak-outs, events

that mostly white women participated in. As a rhetorical strategy, speak-outs gained traction after the 1969 Redstockings abortion speak-out, which helped speak-outs “spread around the country like wildfire.”<sup>76</sup> These events were important, but mostly white, because women of color had much more to lose by publicly sharing their abortion stories and were often excluded by white women. Jessica Gantt-Shafer argues that women of color were less likely to participate in such events because they were either excluded or the stories white women told did not usually acknowledge the reproductive oppression and violence women of color and migrant women experienced.<sup>77</sup> This fact made it even more critical for Brown women’s experiences to be represented in public discourse to ensure that they have power over their own stories and voices. For Brown women, “finding their voice and framing issues in ways that resonate within their communities is part and parcel of the political struggle of women of color organizations.”<sup>78</sup> Telling Brown women’s personal stories and tales of community power help protect women from anti-abortion and anti-migrant violence, and helped educate other women about political involvement, social issues, and reproductive options.

Brown women wanted to share abortion stories, but it was sometimes difficult given the social, cultural, and religious stigma about abortion. Because of this, Brown women’s activist groups helped frame abortion in terms of power, agency, and self-determination. The NLIRH stated that many Latinas had never openly talked about abortion and were hesitant to address the topic in public or even in more private settings. Despite this social and cultural hesitancy, the NLIRH also found that there was a desire to discuss abortion, especially beyond the political, electoral politics part

of abortion discourse. Latinas wanted education, community, and social knowledge of reproductive options.<sup>79</sup> Recognizing this, the NLIRH launched an annual storytelling campaign called *Soy Poderosa*, “I am powerful.” A diverse array of participants have their photos taken with signs that say, “soy poderosa and my voice matters,” and people are asked to fill in the blanks to the statement, “I am powerful because. . .” The NLIRH also partnered with groups like *Rewire News Group* to share Brown women’s stories on their website and expand the number of people reading these women’s testimonies. The *Soy Poderosa* campaign stemmed from an NLIRH survey, which showed organizers that how they should talk to Latinas about abortion is heavily dependent on “language and framing.”<sup>80</sup> For instance, abortion as a personal choice that helped women act as agents over their futures and their bodies was a framing that spoke to Brown women differently than describing abortion as sinful or against Catholic doctrine.

*Soy Poderosa* began as a general campaign about Brown women’s empowerment in 2012, but it became more about centralizing women in abortion narratives when the campaign became part of the annual Latina Action Week for Reproductive Justice. The NLIRH’s campaign video, “Yo Te Apoyo, I Support You,” interviewed an array of Latinas who support abortion rights. Their testimonies helped demystify and destigmatize abortion as viewers could see many women who look like them unafraid to share their support for abortion. The video is in English and Spanish and blends narrative and documented facts to bring abortion out of the shadows.<sup>81</sup> It begins with two powerful statistics: “6 out of 10 Latinos support a woman’s ability to make personal, private decisions about abortion” and “7 out of 10 Latinos agree we

should not judge someone who feels they are not ready to become a parent.” These facts encourage Latinas to see themselves as members of the majority who also support women’s decision-making.

The campaign video highlighted many Latinas who opened their testimonies with, “I am Latina and I support you,” which shows how narrative was a powerful strategy in building community support for one another and for abortion rights. In Gabi’s story, she explained that she did not have an abortion after finding out that she was pregnant, but she did support the right to choose. For her, “making a decision is not about making the right or the wrong one. It’s about a woman choosing when she wants to have a family. It’s about knowing when you’re ready and making the choice to become a mother.” In addition, Genesis told a story of supporting her friend through her abortion because it was her duty “as a friend” to stick beside her. A sequence of women also come together to argue, “A woman’s body is her own.”<sup>82</sup> These examples show how narrative garnered community support for abortion rights and for each other. Women could see themselves as actors in the abortion narrative. Like the women in “Yo Te Apoyo,” viewers could feel less alone and less shameful about having an abortion or considering one. Abortion could be something they defined on their own terms and was an available option for women if they needed it.

In addition, the narratives in “Yo Te Apoyo” emphasize how Latinas who have abortions were supported by their families and by Latino men. Because “8 of 10 Latinos would support a close friend or family member who needed an abortion,” many men interviewed voiced their support for women’s reproductive decisions. A litany of people iterated the phrase (half in English, half in Spanish), “Sisters support

each other. Mothers support daughters. Boyfriends, brothers, friends support you.” Similarly, numerous self-identified Latinas and Latinos repeat, “I will listen to you.”<sup>83</sup> These quotations engaged in emotion work, which is a key part of every movement of social change.<sup>84</sup> Because Latinas could potentially lose friends and community support if they came forward about their abortion, it was a powerful community tool to hear many people agree to listen to women and support their reproductive decisions. Maria’s testimony as a mother defied rhetorical expectations because she used the Catholic Church as a tool *for* supporting abortion rights. She compares her love to God’s love, saying she loves her children and supports their decisions more than anything, but that she is just a “drop in the ocean of God’s love.” Maria promised not to judge her children and explained that their choices should be between them and God; she would love them even if they chose to have an abortion. The decision to include her testimony was particularly important given anti-abortion stigma’s prevalence in the Catholic Church.<sup>85</sup> Not only did her narrative show familial support, but it also used religion to support people’s individual choices. As such, these narratives defined abortion on women’s own terms while showing an outpouring of community support for their personal decisions.

*Soy Poderosa* as a storytelling and civic engagement project helps bridge communities and also humanizes issues like abortion and immigration. This campaign was important for activists because abortion and migration narratives are more personal and accessible than abstract policy discussions. Anti-abortion and anti-migrant policies affected real people with complex stories, histories, and families, but the constant media news cycle of the world’s problems can desensitize people to

empathy. *Soy Poderosa* encouraged women to see themselves in abortion discourse, reclaiming abortion as an intimate experience through definition rather than viewing it as a deeply pathologized, political issue. Narrative accentuates the rhetorical power of definition by allowing Brown women to declare and exercise power in their communities.

It was also important that many activists asserted the rhetorical power of definition in Spanish. Not only does this create space for various forms of activism and activists in the United States, but it also was a rhetorical pushback against white supremacy. After *Soy Poderosa* activists gathered outside the Supreme Court in 2016 to protest Trump, an editorial was published in the *Washington Post* arguing that the activists should translate their message into English. Colleen Ligibel stated, “I encourage folks who demonstrate in front of the Supreme Court to deliver their messages in English. If you want to benefit from the privileges of living in this country, including the right to an abortion, do so in the language in which the court writes its decisions.”<sup>86</sup> Protesting in Spanish was a powerful rhetorical tool that disrupted nativist and white supremacist power. Making their oppressors uncomfortable was a win for activists and their ability to reclaim rhetorical power in the abortion debates.

Sharing abortion narratives was an especially radical act for migrant women of color; Brown women often risked their safety and reputation to tell their stories. Laura Molinar, founder of the reproductive justice group, Sueños Sin Fronteras, stated that sharing stories is easy for white women, but “we have to think about the cultural terrain and context we live in.” It is also difficult for some to celebrate

abortion rights in a tumultuous political climate, potentially facing pressures and stigma from family, friends, and religious leaders.<sup>87</sup> In addition, the risk of personal exposure through storytelling was heightened because of the rampant anti-abortion clinic violence the United States has seen skyrocket in recent years. This violence includes the murder of doctors like Barnett Slepian and George Tiller.<sup>88</sup> Pamela Merritt of ReproAction argues that in the face of such violence, activist women have to be prepared for retaliation. She stated, “Whenever you do direct action, they will come after you—they will come for you in an organized, well-funded way. You need to expect the reaction.”<sup>89</sup> Given these circumstances, sharing one’s story is a radical act, full of risks and rewards.

Despite the risks, many Brown women activists described sharing their story as “freedom”—freedom to define themselves and their futures. For activists like Alejandra Pablos, speaking out publicly helped get her deported. But she did not regret it because she said her story helped her and her community heal. Pablos said, “I feel free when I’m sharing my story.” Yet her own stories also helped her fulfill what she envisioned as a responsibility to the community to continue to be a voice for them. She recognized that healing and finding connection and compassion through trauma is important for communities that have been terrorized.<sup>90</sup> Even with the apparent risks in speaking up, many activists offered to be interviewed by the press because it was important for them to share their experiences.<sup>91</sup> *WeTestify*, a diverse group of abortion activists, share their stories online to destigmatize abortion, offer tips, and create community. Stephanie Gomez argues that her abortion was a moment of “empowerment and resistance against oppressive systems.” Cora said her abortion

“saved her life.” And Jeana stated that her abortion allowed her to “heal.”<sup>92</sup> Similarly, the Lilith Fund has an advocacy network that connects women of faith with abortion stories and services. They refer to abortion as a “blessing” that helps women have the resources they need to care for themselves and their families.<sup>93</sup> Abortion as freedom or as a blessing stands in direct contrast to abortion as pathology. It is not an indicator of social ills or the nation’s moral downfall; it is a right that allows women the choice to define their lives and their futures.

The rhetorical power of definition through migrant women’s narratives was also present in legal and official government documents. Some activist women, like the women above, used narrative to de-pathologize abortion and frame it as a life-affirming, powerful experience. On the other hand, narrative helped exemplify how reproductive abuse against migrant women severely damaged their physical and mental wellbeing. The stories in this section demonstrate the harmful effects of rhetorical pathology that helped deny them an abortion and justified abusing them in custody. Narrative here shows migrant women’s plight and their attempts to take back power; their stories exposed the Trump administration’s maltreatment and showed how they were punished for their identity as a migrant woman on American soil. On September 26, 2017, seven pro-women and pro-migrant organizations filed a formal complaint about ICE’s treatment of pregnant women under the Trump administration.<sup>94</sup> Groups such as the ACLU and the Center for Gender and Refugee studies wrote to Cameron Quinn, Officer for Civil Rights and Civil Liberties, and John Roth, Inspector General of the Department of Homeland Security, to protest the inhumane conditions pregnant migrants faced in detention. They cited injustices and

called for a formal investigation into ICE operations, but the bulk of their complaint used narrative to “illustrate a disturbing trend of ICE officials” unjustifiably denying or delaying the release of pregnant women and failing to properly care for them.<sup>95</sup> These narratives demonstrated the atrocities women experienced and how rampant this abuse was for migrant women. It seemed almost every woman had an incredibly traumatic tale about government abuse while detained.

These stories and definitions were acts of challenging pathology, which shows the revolutionary potential of using narrative to speak back to pathologizing. In the complaint, recently pregnant migrant women (under pseudonyms) described the abuses they faced on their journeys to the United States and while in ICE custody. Many women, such as Ana, Carolina, and Sara, reported being pregnant as a result of rape. Norma was fleeing gang violence and had to deliver her baby in custody while shackled. Monica miscarried while she was detained and credited the trauma, stress, and anxiety of the whole process as contributing factors. After fleeing gang violence and situations where she was raped repeatedly, Carolina was found not to have a “credible reason” to remain in the United States and she spent five months of her pregnancy detained. These women also faced severe, inhumane physical abuse in the facilities: Ana had a urinary tract infection and suffered migraines, fainting, and severe body pain—all of which were untreated in detention. Teresa suffered through a miscarriage, headaches, depression, and had her Tylenol taken from her by ICE officials. And Rosa was denied her vegetarian diet, vomited blood, and had to be hospitalized for dehydration and exhaustion.<sup>96</sup> We also know from the story of Jane Doe that many of these narratives and the abuses these women suffered would never

have been known without activists, lawyers, and journalists investigating detention centers. These stories humanize the migrant women who the Trump administration dehumanized through statements and policy. Migrant women's narratives put names and descriptions onto this horrific treatment to hold the Trump administration accountable, and to show the insidiousness of Trump's pathological rhetoric about migrants. Telling migrant women's stories exposed Trump and encouraged seeing migrant women as human people, undeserving of Trump's punitive policies.

Similarly, abortion narratives involving young people were commonly used to de-pathologize abortion for a vulnerable demographic. The organization Las Libres (with the help of NBC News) highlighted the story of Liz Stuntz, who had an abortion from a pill she got from Ciudad Juárez, Mexico. She stated, "I really didn't want to deal with all the restrictions and unnecessary stress that goes along with the abortion in a clinic so I started looking into the medication abortion options."<sup>97</sup> On a similar note, the story of Jane Doe captivated national attention and spurred debates on migrant rights and abortion rights for teenagers. Her own narrative was particularly important since a key question from the court was whether Jane remained unwavering in her abortion decision. Judges and lawyers demanded to hear it in her own words. The ORR also forced Doe to tell her abusive parents about her pregnancy, which was a vicious, rhetorical power move Scott Lloyd used to assert dominance over her and greatly risked her safety.<sup>98</sup> Once Doe's story came to light, she said that many girls and women had written to her and called to show their support for her freedom and right to access abortion. She said, "I am touched by this show of love from people I may never know and from a country I am just beginning to know – to all of you,

thank you.”<sup>99</sup> Her story resonated with many women who had been unheard, unseen, abused, and treated differently because of their age, gender, race, or nationality.

Many migrant women’s narratives stressed that a key barrier to abortion rights was how expensive the whole abortion process was. Abortion was a right that was legal in name only for many women who could not afford the procedure (or the abortion pill), childcare, or travel costs. They often could not take days off work to travel or recover. Migrant women were at the mercy of the healthcare system and what doctors they could access. Reliable and trustworthy doctors were hard to find, did not always have timely availability, and sometimes did not speak the same language as their patients. Although some women chose illegal abortions or more unsafe methods, organizers created provisions and safety nets for women in need. To offset the high costs associated with abortion, organizers relied on abortion funds. Being able to fund abortions for community members placed some of the power anti-abortion groups stole from women back into the hands of Brown women. Abortion funds and legal defense funds show how women continue to find ways to access abortion, even in the face of extreme laws and disturbing anti-abortion violence.

#### *Reclaiming Power through Abortion Funds*

Brown women reclaimed rhetorical, political, and financial power through abortion funds. Abortion funds and mutual aid have been commonly used throughout history to help women afford and access abortion, especially during times when abortion was illegal or heavily policed. For example, the women of “Jane,” a Chicago collective of women who provided abortions when the procedure was illegal, made offsetting costs an important part of their mission. They arranged transportation,

childcare, and funding for women who could not afford the procedure and connected them with reliable doctors.<sup>100</sup> Since then, national networks in the United States like the National Network of Abortion Funds (NNAF) were created with the goal of “removing financial and logistical barriers to abortion access by centering people who have abortions and organizing at the intersections of racial, economic, and reproductive justice.” Abortion funds help women get abortions in the present moment, but their organizers also have a broader mission to repeal federal and state bans on public funding for insurance coverage of abortion, including the Hyde Amendment.<sup>101</sup>

The NNAF was created over 25 years ago and has since expanded its mission, working with many community-led groups and national and local organizations run by women of color in the United States. They work with the NLIHR, In Our Own Voice: National Black Women’s Reproductive Justice Agenda, URGE: Unite for Reproductive and Gender Equality, the Reproductive Health Technologies Project, and similar organizations.<sup>102</sup> Throughout history, abortion funds were an act of “radical collaboration” among people, communities, and organizations. They shared a common goal of transforming abortion from “shame to pride, barriers to access, isolation to community.” Most U.S. abortion funds were targeted and strategic in their outreach and believed their money should be first used to help alleviate racial and economic barriers to abortion access. Fund organizers normally used a reproductive justice framework in the operations, which prioritized funding for migrants, women of color, low-income people, and people without insurance.<sup>103</sup>

While many abortion funds were connected to the NNAF in some way,

numerous smaller and more local funds were created to better serve U.S. communities. Texas has some of the most extreme abortion laws and has been a battleground state where the future of abortion rights is tested. For instance, House Bill 2, which shut down most of the abortion clinics in Texas in 2013, and Jane Doe's battle for reproductive autonomy, both took place in Texas.<sup>104</sup> Tina Vasquez argues that, "Over and over and over again—whether it's immigration or abortion access—we see that draconian policies are piloted in Texas before being parroted elsewhere. It's a mistake to dismiss what happens there as the 'backwards south.' It's a roadmap."<sup>105</sup> Because Texas is so important for the future of abortion access, activists there have created many funds to help women across this very large and politically important state get access to care. The Althea Fund, Lilith Fund, Buckle Bunnies Fund, Texas Equal Access Fund, Jane's Due Process, and West Fund were just a few abortion funds created to serve Texan women specifically. Similarly, activists created funds solely for undocumented peoples such as the Mariposa Fund and Sueños Sin Fronteras de Tejas, which provides abortion education and assistance for migrant and asylum-seeking women in Texas.<sup>106</sup>

Abortion funds empowered migrant women by providing them with community-care that was safer for migrant women than going to an abortion clinic, where police or ICE might be waiting for them. The Hyde Amendment, state abortion bans, and deportation fears made accessing abortion a potentially terrifying experience for migrant women. Funds like the Mariposa Fund explicitly stated that they were a safety net for migrant women who might be subjected to state violence when accessing abortion. Founded in 2016 by a group of abortion providers, the

Mariposa Fund works to protect migrant women from the “extraordinary barriers” that prevent them from seeking reproductive health services, including abortion. They faced “obstacles such as fear of criminalization, lack of access to health insurance, economic insecurity, linguistic barriers, and oppression rooted in white supremacy and xenophobia,” which the Fund tried to help eliminate for migrant women seeking care.<sup>107</sup> Similarly, the Indigenous Women’s Rising (IWF) started providing abortion fund services for migrant women “because the U.S. has caused the migration of millions of disadvantaged people of color across the globe through its federal policies abroad.”<sup>108</sup> As shown through their missions, these funds empowered migrant women in their own communities by assisting them in taking abortion into their own hands. Such agency was powerful in the face of an oppressive regime that tried to disempower and dehumanize them through anti-abortion and anti-migrant pathology.

Abortion funds allowed women to have more agency in the abortion process, individually and collectively. Women “built power” by creating grassroots connections and localized expertise. The women who ran abortion funds had direct knowledge of services, across “widely varying culture and political geographies.” They were experts on how best to navigate abortion politics in their area, and pledged to always act as a “safety net of care,” despite an anti-abortion political landscape. They were led by caring volunteers who organized events, provided transportation to appointments, and answered phones. Katie Monroe argues that policymakers should look to abortion funds for leadership and direction on reproductive justice issues because they have the most expertise about these issues and how they affect people’s lives.<sup>109</sup> Many women have ancestral knowledge of mutual aid and are true experts on

community-led abortion access. Yet these women are untapped resources who have been overlooked or excluded by white feminism.

Similarly, abortion funds spoke the language of empowerment, which became a more important rhetorical frame after anti-choice groups tried to stake claim to “empowerment.” Reproductive justice groups argue that abortion funds help create a more equitable world where “all people have the power and resources” to care for themselves and their families.”<sup>110</sup> COLOR, the Colorado Organization for Latina Opportunity and Reproductive Rights, also emphasizes “empowerment” through knowledge, community, and education in order to advance reproductive justice.<sup>111</sup> Anti-abortion groups have co-opted the rhetoric of abortion “empowerment” to undermine this progressive argument. They asserted that abortion bans empower women by encouraging them to “choose life.”<sup>112</sup> The antis also argue that since abortion hurts women, bans empower and protect them. Debates over the rhetorical ownership of “empowerment” demonstrate how anti-choice groups like to tell women what is best for them, while RJ groups prefer women to tell their own stories and act as agents in their own lives. Such agency stems from having more reproductive choices, not less. Both sides laying claim to “empowerment” showed how the rhetorical power of definition is significant in abortion debates, and how crucial it is for migrant women to exercise rhetorical and interpretive power.

In recent years, as abortion became more criminalized, abortion funds have expanded their mission and have been working more closely with legal defense funds and bail bonds. RJ advocates argue that because of this climate of criminalization, the coat hanger image of the pro-choice movement is slowly being replaced by images of

handcuffs. The coat hanger symbolized the need for abortion to be legal to free women of unsafe, “back-alley” abortions and potentially dangerous providers. The contemporary moment is more concerned with women and mothers being jailed for trying to have an abortion or because they had a miscarriage.<sup>113</sup> The RJ call for “healthcare not handcuffs” uses handcuff imagery to show the shifting political climate towards criminalization and its devastating effects for women and families. If/When/How, a group of lawyers working for reproductive justice, created special funds to help pay for court fees, incarceration costs, lawyers, and more, for women if they are detained or arrested while accessing abortion.<sup>114</sup> Executive Director of the Women’s Medical Fund Elicia Gonzales said that legal funds and abortion funds are intertwined because the “nature of this work is a demonstration of how policies, by design, are attacks on poor people.”<sup>115</sup> Developing organizational partnerships was important for communities and women who were highly surveilled, like migrant women. For instance, an abortion fund paid for Jane Doe’s procedure. She knew about the fund and was able to access it with the help of her lawyers at the ACLU during her detention.<sup>116</sup> This example showed how the connections between legal funds and abortion funds were more deeply intertwined under the Trump administration, which relied on rhetorical pathology to criminalize abortion and immigration.

Importantly, abortion funds help build trust and build power rooted in migrant women’s expertise. They build trust among the community and ensure that women feel supported and heard, which directly opposes rhetorical pathology. Abortion funds also help women who might distrust medical professionals because of past

experiences or stories from people they know. They build power because they are “autonomous in their structure and policies.” This allowed for women to exercise control over almost every step of the abortion process. The funds helped provide emotional support, financial support for the procedure, and “practical support,” including transportation, childcare costs, lodging, translators, abortion doulas, and similar expenses.<sup>117</sup> Also, most of the money donated to abortion funds come from small, individual donations from supporters of the RJ movement. Cost was such a crucial factor because nearly 60 percent of Latinas who had to delay abortion care stated they did so because they needed more time to raise money. Some women had to choose between care and basic needs like housing and food.<sup>118</sup> Because of this reality, Congresswoman Ayanna Pressley (D-MA) argues that “the people closest to the pain should be closest to the power.”<sup>119</sup> Abortion funds shed light on much needed healthcare and political reforms to improve women’s access to important care. It also shows how women claimed rhetorical, political, and financial power over abortion access in their communities. One of the most important components of abortion funds was that they were run by a model of community-led care, a concept known as the *promotoras/es* model that has been popular in Latin America for decades.

### *Promotoras Model*

Another way that Brown women took abortion into their own hands was through the *promotoras/es* model of care. *Promotoras* are “sexual- and reproductive-health worker[s] for the Latino community.” They were community members who became certified to educate and serve their community’s medical care needs. The

model was based on findings that people learn and listen more when they are in a safe space. It was also mostly used in the United States in the American Southwest, along the Texas-Mexico border. It was intended to help with issues of sexual and reproductive health and has been called a key piece of “any health care reform effort.”<sup>120</sup> The model helped combat the misinformation, distrust, and potential violence that anti-abortion extremists have made a common part of accessing reproductive healthcare.

*Promotoras* educated and helped their own people in better and more trusting ways than if an outsider were to come in and tell them how to live their lives. Such community support helped Brown women assert the rhetorical power of definition. It was not a top-down approach to healthcare but, grassroots-led and organized. Activist Elizabeth Estrada described the model as one where people use their personal experiences to build community knowledge. She described it as a model where people say, “Here’s my experience. This is what I know. Let me share my knowledge with you.”<sup>121</sup> It was important for marginalized communities to share resources and knowledge, but it was even more crucial for reproductive health that has been stigmatized and difficult to access. This model was successful, in part, because 80 percent of the community-health workers in the United States are women.<sup>122</sup>

Providing care by women for women empowered Brown women by equipping them with the healthcare resources needed to be able to exercise autonomy over their lives.

*Promotoras* provided leadership, peer education, and resources to support community empowerment, which was particularly important to Brown and migrant communities because they could bridge gaps in language or culture. Allison Squires,

an associate professor at NYU who authored a piece on *promotoras*, argued that *promotoras* were crucial in Brown communities for their “language and cultural interpretation skills.” She explains that many U.S. providers can only speak English, which severely debilitates Brown communities and cuts them off from care. In addition, because most providers only spend around seven minutes with a patient according to Dr. Matthew O’Brien from Northwestern University, *promotoras* are necessary for culturally competent healthcare. They provide a “heartfelt service” that addresses the specific needs of their community.<sup>123</sup>

As such, *promotoras* were especially useful in communities with little resources or scant access to basic services. They were also important tools for helping Brown women take power over their reproductive health. For instance, La Voz Latina was created to organize Latinas around reproductive health in 2001. A few years later, they worked with the NLIRH to hold community marches and rallies, “which led to significant wins—cervical cancer screening became available” in Hidalgo, Texas, and cuts to family planning were denied. La Voz Latina and their *promotoras* also led charges to get transportation secured for women in need of reproductive healthcare. They worked with many community organizations, held trainings, and attended an annual conference to learn more about their communities and how to provide aid. This model was important for healthcare in general, but it was especially important for reproductive justice. *Promotoras* are “100% about recognizing women’s rights, about accepting what is just, and what a woman really wants,” which made them crucial community resources for educating Brown women about abortion options and other reproductive justice concerns.<sup>124</sup> *Promotoras* did crucial

community work and organizing to help Brown women's communities define themselves, and their health, on their own terms. It reoriented how vulnerable communities think about access to healthcare and encouraged more people to get certified to become community healthcare workers themselves.

Through narrative, abortion funds, and the *promotoras* model of care, we see how migrant women reclaimed rhetorical power over their own stories and the outcomes of their pregnancies. They exercised control over how abortion was discussed and accessed, especially during a time of heightened criminalization and deportation. These rhetorical strategies directly combatted rhetorical pathology, which Trump used to dehumanize and disempower Brown women. Exercising rhetorical power over abortion stories and abortion access was a revolutionary and radical act in migrant communities. It demonstrated Brown women's power to resist and defy pathological characterizations that worked to deplete their bodily autonomy.

### **Rhetorical Secrecy**

Another way that Brown women activists controlled how people thought about abortion and immigration was through rhetorical secrecy. Secrecy is a crucial component of pathology that is often *inflicted on* migrant women. Abortion and migration are shrouded in secrecy and heavily stigmatized. In what follows, I argue that Brown women activists mobilized secrecy to their advantage. In some situations, they proudly and openly shared their stories, which we saw with women's narratives above. Some Brown women activists combatted secrecy and were not afraid to be detained or imprisoned for their abortion and migrant rights advocacy. But in other situations, they wanted to remain hidden from white, patriarchal surveillance. They

relied on whisper networks and built online systems that could provide women with medication abortion to keep them safe. Brown women activists reclaimed rhetorical secrecy as a tool for empowerment, rather than a weapon used to silence them. Secrecy offered protection when used on Brown women's own terms. First, I discuss how Brown women activists combatted secrecy through disclosure and by reappropriating criminality. Then, I argue that Brown women activists used secrecy to their advantage by further developing more covert online networks that distributed abortion information and medication abortion.

Brown women activists had to code-switch, protecting secrecy and privacy in some situations and speaking out through narrative and media exposure in other situations. They had to navigate yet another contradiction inherent to rhetorical pathology. White supremacist, misogynist oppressors demanded disclosure from migrants because they were threatened by and distrusting of their secrecy. They required disclosure from migrants, but intentionally kept their stories hidden from the public. It was easier to control and abuse migrants if fewer people were outraged by these injustices. In Jane Doe's case, Lloyd knew women's menstrual cycles and sexual assault histories, but prevented them from seeing a lawyer or obtaining a sponsor to facilitate their release.<sup>125</sup> He controlled which information was disclosed, when, and to whom. As such, the Trump administration used forced disclosure and forced secrecy to control migrant women.

Abortion has been described as an "open secret"—something that women have always accessed throughout history, but was rarely discussed openly or publicly.<sup>126</sup> Pathology ensures that women are punished and stigmatized for seeking

abortion care or publicly supporting abortion rights. To protect their own safety, women, especially women of color and/or from migrant communities, had to be careful about how much they showed support for abortion or shared their experiences. Abortion has historically been discussed through hushed tones, coded language, and euphemisms. Despite being “rarely discussed” freely and publicly, abortion remains “widely acknowledged” and a relatively common experience. It has become one of the most contentious public issues with widespread personal consequences.<sup>127</sup>

As terms, secrecy and privacy overlap in abortion discourses.<sup>128</sup> “Privacy” has been mobilized in feminist and abortion debates throughout history, normally to defend a constitutional right to abortion. For instance, *Roe v. Wade* (1973) ruled in favor of Jane Roe (Norma McCorvey’s) “right to privacy.”<sup>129</sup> Abortion was ruled a private decision between a woman and her doctor, based in the Fourteenth Amendment’s concept of “personal liberty.”<sup>130</sup> Contraceptive rights in *Griswold v. Connecticut* (1965) were also granted to married couples under the Court-recognized right to “marital privacy.”<sup>131</sup> At the same time, many women were tired of living their lives solely relegated to the home and the private sphere, and advocated for women’s participation in the public sphere in early feminist movements in the United States.<sup>132</sup> This brief example shows that “private” as a term has been mobilized to meet different political objectives. It can protect abortion rights and women’s right to work, run for office, and file for divorce.

But because “privacy” can be mobilized by different political groups for different ends, feminists have to be careful not to use privacy to enforce the status quo when they mean to challenge it. Laura W. Stein explains that “privacy” rhetoric runs

the “risk of backfire” by affirming a “separate-spheres ideology that has traditionally oppressed women.” Because of this, some feminists have wanted to replace the dominant frame of a “right to privacy” with the “right to equality” to protect bodily autonomy.<sup>133</sup> Since privacy has been recognized in abortion law, it cannot be easily erased from abortion discourse. It still has potential as a term if mobilized by women for women. Privacy and secrecy must be used on migrant women’s terms to lessen the “risk of backfire” from a white feminist advocating for abortion rights through a narrow, exclusive lens. The tension here shows how important it is for migrant women to assert rhetorical power, rather than have white feminists or white supremacists tell their stories and define their identities for them. Because privacy and secrecy have been forced onto Brown women historically, it is empowering when they get to choose which parts of their lives they keep private and which parts they share unapologetically.

### *Combatting Secrecy*

Brown women activists combatted rhetorical pathology by choosing when to speak out in public and when to organize privately. Secrecy was reclaimed as a phenomenon that Brown women activists could control and use to their advantage. Reclaiming and reappropriating words is a common rhetorical practice in activist circles. Reappropriation is taking “possession of a slur previously used exclusively by dominant groups to reinforce another group’s lesser status.”<sup>134</sup> Activists have taken slurs or insults used to belittle, harass, and threaten them, and adopted them as part of their own vernacular. For instance, “queer” once was considered an insult and “cuss word,” but has been mostly reappropriated by the LGBTQ+ community as their word.

Many people identify as queer and we have disciplines like queer studies.<sup>135</sup> Some would also argue that “bitch” has been reclaimed; many women today identify as a “bitch,” refer to their friends as “their bitches,” and associate it with positive adjectives in phrases like “boss bitch.”<sup>136</sup> Others are still offended by the term, but we see how words shift in meaning and ownership throughout time and culture.

We see a similar rhetorical reappropriation in migrant women’s activism. Trump and many xenophobic conservatives throughout history have iterated and advanced pathological characterizations of migrants as criminals. Here, we saw migrant women turning criminality on its head, arguing that they are willing to break laws that are oppressive. In his 1963 “Letter from Birmingham Jail,” Martin Luther King, Jr. said that “one has a moral responsibility to disobey unjust laws.”<sup>137</sup> This sentiment is echoed in statements from Mexican activist Véronica Cruz, director of Las Libres or “The Free,” an abortion advocacy group in Mexico. She explained that many activists of color were no longer afraid of criminality—they were determined to help women at whatever cost. She stated, “We aren’t afraid. We are willing to face criminalization because women’s lives matter more than their law.” To her, facing jail time was worth it if “that’s the only way that people will become conscious that what the government is doing is a major violation of human rights.”<sup>138</sup>

Another activist, Crystal P. Lira, told the news media that she intentionally broke the law when she brought pills from Tijuana to California, and shipped them to Georgia, Indiana, Massachusetts, and Texas. Both women stated that oppressive laws in Texas did not stop them from crossing the border to distribute abortion drugs to women who needed them.<sup>139</sup> They had already been pathologized as criminals, so

their actions inverted the rhetorical characterizations. Here, they owned “criminality” instead of having it hurled upon them. Criminality was also justified because it helped provide care to communities and gave women more power over their lives and futures. In this view, the actions of Brown women activists were framed as patriotic and warranted against a state that dehumanized and terrorized them.

### *Using Secrecy*

While some activists like Cruz and Lira were bold and unapologetic about breaking oppressive abortion laws, others worked to keep their practices private from government surveillance. Secrecy was a balancing act—Brown women who needed help had to be able to find organizational resources, but they needed to keep women, activists, doctors, and clinics safe. Brown women activists were particularly careful of how they navigated online spaces, purposefully choosing what types of information to share, how, and where. The Mountain Access Brigade, an organization that provides financial and educational support for abortion across the South and trains abortion doulas, said they took “privacy very, very, very seriously, and use[d] technology to that end.” “Katie,” the pseudonym that all Mountain Access Brigade workers adopt, argued that legality was “often about the words you use, not the actions you take” in a world where *Roe* was holding on by a thread. She said they are careful to provide women with “carefully-worded” abortion materials, especially since they provide care to areas with extreme bans.<sup>140</sup> Similarly, former-volunteer for the Althea Fund Gantt-Shafer describes their mantra as “the caller owes us nothing.” They recognized that women need and want privacy so they provided as much information as they could to callers without asking for their information in return.<sup>141</sup>

Abortion advocates respected women's right to secrecy, while crisis pregnancy centers (CPCs) blatantly did the opposite. Reports surfaced that CPCs, fake abortion clinics that try to pressure women not to choose abortion, store pregnant women's personal information. They collect their name, address, email, phone number, ethnicity, income source, living arrangement, marital status, alcohol use, and cigarette and drug intake. They also collect private medical history including prescription information, previous pregnancy information, ultrasound photos, and history of sexually-transmitted infections. CPCs forced disclosure under a false pretense and housed women's very personal data.<sup>142</sup> This information could be weaponized against women, especially women of color and migrant women to justify their arrest or detention.

Under Trump terror and a global pandemic, many abortion debates took place online. With more women using the internet for abortion information, it became especially difficult to find reliable and trustworthy abortion networks. Anti-abortion groups paid for CPCs to be among the top hits on Google when someone searches something like "abortion near me." Their websites mimicked pro-abortion websites, but led viewers to crisis pregnancy centers instead of actual abortion clinics. Sam Woolley, project director for propaganda research at the Center for Media Engagement at the University of Texas-Austin, stated that it was common for Latino/as to be targeted for mis- (and dis-) information campaigns. Misinformation was targeted towards Latino/as as part of an ongoing far-right campaign to pull this demographic closer to the Republican side. Much misinformation stemmed from groups affiliated with the Catholic Church, which made the false claims appear more

trustworthy; misinformation was especially powerful when it was tied to religion. Anti-abortion groups used Catholicism to demonize abortion and spread abortion myths in memes and online forums preceding the 2020 presidential election.<sup>143</sup>

A few days before the 2020 election, disinformation about the Biden-Harris ticket's stance on abortion circulated in Spanish on Facebook and WhatsApp. One particular meme stated that Biden-Harris supported abortion until the moment of birth and even after the child is born (which is not abortion – it is infanticide). According to data from CrowdTangle, this particular meme had almost 6,000 interactions and was shared 87 times on Facebook and WhatsApp, applications prevalently used in migrant communities. Another meme about Biden's plan to codify *Roe* questioned his devotion to Catholicism because he supported “KILLING BABIES” as the “CONSTITUTIONAL LAW OF EARTH.” This aggressive meme, written in all capital letters, insinuated that Biden was not a “good” or “true” Catholic and it received 2,700 likes, shares, and comments. As part of the ploy to lure Latino/a voters to the Republican Party, they were targeted through religious and moral misinformation online linked to positions the Catholic Church would support. This was a particularly persuasive and powerful tactic because Latinos/as were the largest group of minority voters in 2020 (13.3 percent). They were a major demographic in many swing states and anti-choice groups were working to manipulate their vote days before the election.<sup>144</sup>

CPCs infringement on women's privacy shows how Brown women activists had to combat misinformation and disinformation online about abortion that anti-abortion groups spread across the internet. Abortion activists had to dispel

pathological myths about abortion by discussing it more freely in online spaces. On the other hand, women had to hide their resources from anti-abortion groups who wanted to infiltrate pro-abortion spaces and lure women into crisis pregnancy centers. Antis also wanted to arrest women who were sharing abortion pills or information. An ever-changing political environment full of new threats and technologies compelled Brown women activists to do some of their work more covertly and through channels that the government and anti-abortion groups would have a harder time monitoring and tracing.

The practice of secrecy was understood differently depending on who was doing it, why, and for which audiences. For migrant women, secrecy could be a safety tool. Yet, their oppressors were more likely to see this secrecy as a threat, scheme, or plan to create a criminal invasion against white America. Edwin Black argues that it is “paranoid” and “pathological” to “believe that whatever is hidden is evil.”<sup>145</sup> White supremacists forced Brown people into silence, and then characterized their secrecy as dangerous. This is why it was important for migrants to not only have the rhetorical power of definition over their own stories and healthcare, but also over what information they disclosed. Their use of secrecy made them much harder to control and more threatening to the white supremacist, patriarchal order. Black argues that a hierarchical social order cannot be maintained with total secrecy. The oppressor expects disclosure from its victims in order to better control them.<sup>146</sup> Migrant secrecy is therefore threatening to white supremacist hegemony, which makes it a strong activist tool.

The secrecy that the internet provided was a powerful tool for Brown

women's activist work. As one Brown woman activist explained, "Even though our work is legal and we're not doing anything wrong, we operate under the assumption what we do could become illegal at any time."<sup>147</sup> Internet forums and small internet groups that provided in-person or virtual abortion aid grew in membership and clientele during this time. Groups that connected women to abortion doulas also grew. Aid Access, one of the most popular online abortion platforms, reports requests from almost 30,000 women per year. From March 20 to April 11, 2021, the requests they received increased by 27 percent, largely due to the pandemic.<sup>148</sup> Many of the testimonies featured on their site thank Aid Access for allowing women to have an abortion "discreetly," "without anyone knowing," and in "the privacy of their own homes."<sup>149</sup> Similarly, the Reddit forum, /r/abortion, which provides help with abortion care and options, gained thousands of readers per month from the "start" of Covid in the United States in March 2020 through December of that same year.<sup>150</sup>

To fight misinformation and help women find reliable abortion information, Brown women activists relied on word-of-mouth and more private technologies. One model of care, what Cruz calls the "accompaniment model," used more personal technology to connect women with abortion resources. These activists did use Twitter, Reddit, and more mainstream online platforms to spread abortion information, but these platforms were less reliable because of anti-abortion misinformation and heightened government surveillance over abortion clinics during Trump and the Covid-19 pandemic. Personal technology, such as voice memos, phone calls, WhatsApp, and FaceTime, provided safer, more private communication. The accompaniment model was designed to cultivate trust, build community, and

educate women about abortion options. This model combined resources from allies, reproductive justice groups, and the medical community to provide women with abortion access.<sup>151</sup>

The accompaniment model connected women with other trustworthy women, which was an important tactic to combat the misinformation and manipulation of anti-abortion groups online. Brown women who needed an abortion were given abortion pills, medical counseling, and psychological support. Cost was a factor for many women so the ones who could afford the pills often received a higher quantity of medication than they needed to end their pregnancy. These women would save leftover pills to give to the next woman in need. In addition, Brown women would coach other women through the abortion process, acting as a companion. They would connect over video chats, phone calls, voice memos, or WhatsApp. Erika Sandoval had an abortion “all from a voice memo” within two days of finding out she was pregnant. Another woman, under the pseudonym “Sofia,” had an abortion in secret at her parents’ house. The women who had worked with services like Las Libres said the process was highly effective, safe, and difficult to trace. Cruz stated that the accompaniment model was so successful because their goal was not just to increase abortion access, but to “turn every Mexican woman into someone who could help someone else get an abortion.”<sup>152</sup> This created a powerful army of women, who were educated and ready to help Brown women access abortion quickly and safely.

While many of these networks worked underground to provide private, safe access for women in vulnerable communities, RJ advocates were careful not to refer to these networks as “underground abortion railroads.” Anti-abortion groups have

demonized progressive use of “underground railroads” to distribute abortion pills and information because to them, it exposes women to abortion risks without direct supervision from a doctor. Some pro-abortion supporters also adopted the “underground railroad” frame. Rachel Maddow of *MSNBC* called abortion “railroads” “expensive” and “dystopian” and a *Salon* article equated contemporary abortion networks with “Underground Railroad-style services” like the women of “Jane.”<sup>153</sup> White feminists continued to circulate the term “underground abortion railroad” on social media to praise the work of abortion activists under Trump. Because of this, many RJ activists like Tina Vasquez and Robin Marty and organizations like If/When/How and Prism Reports have published articles and tweets asking people to stop using the term “underground railroad” when they mean “informal abortion networks” or “whisper networks.” For one, most (likely new) abortion activists on Twitter praised the “new” networks, which denied the activist work women of color especially have been doing for decades to create networks of care. As Jessica Pinckney explains, “Black and [B]rown people already lead the most powerful abortion fund network in the country.” And second, the term is racist. Similar to how anti-abortion groups co-opted racial justice rhetoric in Chapter Two, the “Underground Railroad co-opts another movement led by Black women.” Pinckney argues that using this term and failing to understand why it is offensive is another attempt to whitewash the legacy of activists of color.<sup>154</sup> This example demonstrates how important it is for abortion work to also be anti-racist. Reclaiming secrecy is powerful, but white feminists cannot circulate oppressive rhetorics that ignore activists of color and feed into discourse that equates enslavement with anti-abortion

restrictions.

Moreover, Brown women often heard about these “underground,” whisper network services through word-of-mouth, personal social media pages, and even spaces like TikTok. Some brown women activists shared resources, but did so more discreetly by monitoring their social media pages, blocking accounts, private messaging, and similar methods. Women connected to other women, usually in other states or countries, who would mail them abortion pills nationally or internationally. This method was sometimes too slow when Brown women were running against the clock on a time-sensitive issue like abortion, especially since most abortion pills are only legally permitted before the twelfth week of pregnancy. There were sometimes hiccups and delays with obtaining abortion pills, but by and large they were more beneficial for low-income women or women who wanted to stay under the radar of state surveillance. Abortion pills were also cheaper than clinic visits. This was true generally, but also especially true if things like finding childcare, taking off work, paying for gas, and visiting the clinic multiple times were considered. In Ethiopia, abortion pills were only seven dollars, which was a stark contrast to spending hundreds or thousands of dollars for an abortion in the United States. Pills were easier than surgery, required less travel, and were safer (especially during a pandemic). They were private, convenient, and administered at home.<sup>155</sup> The NLRH reports that medication abortions and homemade remedies for abortion have been a common practice among migrant communities. Reasons for self-induced abortion include “mistrust of the health system, fear of surgery, worries about immigration status, concerns about protestors at family planning clinics, cost and shame.”<sup>156</sup> It allowed

for secrecy and safety, two things that were harder to come by under constant Trump terror and community surveillance.

Some organizations such as Plan C spread awareness about medication abortion, using innovative techniques to reach younger demographics and newer audiences through social media. A play on Plan B, the emergency contraceptive pill, Plan C was formed as a direct response to the Trump administration. In fall 2016, “right as the administration turned over,” the website was launched.<sup>157</sup> To raise awareness, the organization’s members placed stickers “in the wild”—coffee shops, streetlamps, bathrooms, etc.—with QR codes and a slogan of, “Need to be unpregnant?” Plan C workers and volunteers commonly went to college campuses and handed out packs of gum to students with abortion information and how to use Plan C’s resources.<sup>158</sup> They also encouraged women in vulnerable communities or who cannot access abortion easily to stock up on abortion pills in case they need them in the future.<sup>159</sup> Recognizing this, anti-abortion groups have recently started their work to ban abortion pills—a battle that will likely be at the forefront of abortion debates in upcoming years.

These resources discussed in this section were often led by women of color activist organizations, but even groups like Plan C helped serve migrant communities who needed covert help and more reproductive options. Using and combatting secrecy was a powerful rhetorical strategy that helped Brown activist and migrant women. While some Brown women who had abortions were willing to put their names in public, other women needed more options. They needed to be able to afford an abortion and learn about resources, sometimes without their friends, families, or

parents' knowledge. Organizations and individuals did the work in communities and on the ground, but key battles for women's reproductive autonomy were also fought legislatively. Brown women activists found ways to help each other, but laws also had to change, especially when the Trump administration played a hard offense against migrant rights and abortion rights during his tenure.

### **Legislating for Migrant Women's Autonomy**

A key fight against Trump was fought legislatively.<sup>160</sup> Legislation helped bring migrant and reproductive issues out of secrecy and into public debate. A number of measures were introduced during the Trump administration to help migrants, but few of them passed. I argue that even though much of this legislation failed instrumentally, in the sense that it did not pass, the proposed policies were still important efforts to bring attention to migrant women and circulate their stories in public, political discourse. Legislative efforts were important constitutively, a rhetorical approach that helps constitute a people standing together for something or with a shared identity. James Jasinski and Jennifer Mercieca argue that a constitutive approach is centered on the representational capacity of language, where texts invite audiences to experience the world in particular ways. It considers how texts invite audiences to modify the meaning of a culture's key terms, experiences of public time and social space, and to uphold or rescript understandings of cultural authority, bonds, and institutions.<sup>161</sup>

Some legal and cultural studies scholars call this "culture-shifting." "Culture-shifting" is described as when a law promotes a new "moral ideal or standard" and works to "change cultural attitudes and patterns." It can work with or stand in

opposition to “rule shifting,” or having a law or statute enacted or repealed.<sup>162</sup> Given these frameworks, we see how laws and legal activism can be useful for drawing attention to and advocating for groups of people. Of course, people supporting bills usually want them to pass, but I argue below that even the “failed” legislation still served an important purpose of drawing attention and resources to migrant women’s oppression. It also shows how a litany of people were using their expertise to try to fight Trump and were not giving up in the face of losses.

The law is, of course, not neutral and is a discourse of power. Politicians are in a position of power to “legitimize one set of interests and concerns over another by constituting the range of acceptable public meanings,” which makes it even more critical that politicians work to advance migrant interests.<sup>163</sup> Since Trump attacked migrants legislatively, politicians had to help communities fight back. Chai R. Feldblum argues that judges and lawmakers have an obligation to pay attention to the moral rhetoric of the legislation they vote on and work with.<sup>164</sup> Not only do politicians have to advocate *for* a position, but they have to resist and refute the opposition. The legislation below shows how legal rhetoric is an important interface between the state and the public. Importantly, the legislation I analyze below was supported by many Brown women activist organizations. Democratic politicians had the community support needed to make their efforts more appropriate and meaningful.

“Legal activism” is a complicated concept because some scholars do not believe it exists or that it should. They argue that politicians and activists are not synonymous.<sup>165</sup> While this statement is generally true, their work *can* overlap.

Activists can become politicians and some politicians return to activism when they leave office. Many politicians also claim to fight for certain groups of people and would likely consider themselves activists, like Alexandria Ocasio-Cortez.<sup>166</sup> They do work within institutions in support of law and order, which can be problematic, but at the same time, public polls show that constituents do not want leaders who stand for nothing and refuse to fight for them. Levels of trust between politicians and constituents are generally low and many people say politicians place personal interests over the interests of the country. There are clear problems, but voters generally believe that politicians should do something to help them during their tenure.<sup>167</sup>

Moreover, some argue that women's bodily autonomy should not be legislated and kept out of the hands of politicians.<sup>168</sup> The "should" conversation is a bit arbitrary here because the reality is that the Trump administration *did* create and capitalize on policies that harmed migrant women's reproduction. Voters who support immigration and abortion likely expect Democrats to fight back against Trump by using their legal expertise. Celeste Condit argues that not all political work is done or can be done "by movement rhetors."<sup>169</sup> Especially with the immense terror Trump helped inflict on communities, people had to fight back using whatever knowledge and resources they had.<sup>170</sup>

To combat Trump terror and the trauma he helped inflict on migrant women, pro-migrant legislation emphasized community "healing" through reproductive options. Similar to how some women above described abortion as a "blessing," abortion care as "healing" was an important frame in combatting rhetorical pathology.

The Health Equity and Access Under the Law for Immigrant Women and Families Act of 2019, also known as the HEAL Act, would have allowed low-income women to obtain insurance through the Affordable Care Act and expanded their access to healthcare services.<sup>171</sup> These services included sexual, reproductive, and maternal health care.<sup>172</sup> This was especially important for migrant communities because in 2019, 48 percent of low-income migrant women were uninsured. They were only allowed to access Medicaid for labor and delivery, severely affecting access to prenatal care.<sup>173</sup>

Representative Pramila Jayapal (D-WA) who first introduced the legislation said the Act was intended to remove “cruel and unnecessary barriers” to healthcare that migrants faced. The HEAL Act was written by lawmakers but heavily supported by activist organizations led by women of color. The National Latina Institute for Reproductive Health, the National Asian Pacific American Women’s Forum, and In Our Own Voice: National Black Women’s Reproductive Justice Agenda brought 300 activists of color to Washington, D.C. to lobby lawmakers in favor of the Act.<sup>174</sup> The Guttmacher Institute argued that if passed, the bill could have sent “a strong signal by Congress to counter the Trump administration’s demonstrated hostility to immigrants’ health and rights.”<sup>175</sup>

Healing and restorative rhetoric not only combatted Trump’s pathological characterizations of abortion and his abhorrent policies, but it also encouraged community-healing through abortion care networks and increased access. The National Immigration Law Center described the HEAL Act as a “protection” that will “ensure the health and well-being of us all” and the NLIRH referred to it as a measure

to ensure that migrants live with “dignity and thrive.”<sup>176</sup> Similarly, the EACH Woman Act was supported by activists who believed the Act would alleviate some of the “harm” inflicted on migrant communities and communities of color. The EACH Woman Act would repeal the Hyde Amendment, which disproportionately targets low-income women of color.<sup>177</sup> The Act was a result of “long-standing efforts led by women of color to counter the injustice and discrimination in the Hyde Amendment” and would be a major step in the fight for equality in abortion access.<sup>178</sup> All\* Above All, an organization dedicated to ending the Hyde Amendment, praised the EACH Woman Act as “bold” and “groundbreaking legislation for abortion justice.” The Act would alleviate some of the “profoundly harmful” effects the Hyde Amendment has on reproductive healthcare access.<sup>179</sup> To date, neither the Each Woman Act nor the HEAL Act has passed, but they importantly centered care for migrant communities while trying to offset some of the reproductive harm they had experienced. This shows how most legislation was an instrumental failure, but worked constitutively to help Brown women and politicians come together to fight for migrant rights and encourage others to join them in supporting such legislation.

Similar to restorative, healing rhetorics, pro-migrant legislation also exemplified the “dignity” of migrants. Introduced in 2019 by Senator and then-presidential hopeful Cory Booker (D-NJ), the Dignity for Detained Immigrants Act of 2019 directly centers migrant dignity in its name.<sup>180</sup> If enacted, this bill would have allowed thousands more detained migrants to seek release per month, overflowing the immigration system’s ability to process such requests.<sup>181</sup> It would “throw the detention machine in reverse” and “radically restrict detention capacity” over a few

years. Dara Lind argues that it was fairly obvious that this bill would not pass easily, but the bill was not “designed to” pass easily. Instead, it was a larger gesture at dismantling the broken immigration system.<sup>182</sup> Amnesty International supported the bill because it would address the “harmful overreach, abusive conditions, and profiteering incentives” that plague our immigration system and help treat detained migrants more like humans, than prisoners.<sup>183</sup> Similarly, the bill was praised for being a more dignified and “humane” approach to immigration reform that would centralize migrants and dismantle part of the oppressive U.S. detention system.<sup>184</sup>

Dignity and humanity were also important frames in the Stop Shackling and Detaining Pregnant Women Act. Under Trump, pregnant women in ICE and ORR custody were being forced to give birth while shackled. Detained women would not be restrained and shackled during labor under this proposed law, which was meant to “ensure the humane treatment of pregnant women.”<sup>185</sup> Senator Patty Murray (D-WA) argued, “It is absolutely unacceptable that in our country pregnant women are being detained, shackled, and denied the care they need to have a healthy pregnancy. . . .The Trump Administration should immediately reverse course on this heartless and dangerous policy that puts the health of mothers and infants at risk.”<sup>186</sup> The Act would also make it harder to detain pregnant women, reversing the provision Trump enacted that detained more pregnant women than ever before in the United States.<sup>187</sup> The Stop Shackling Act and the Dignity for Detained Migrants Act tried to improve some of the inhumane and cruel conditions rampant in American immigration detention centers.

None of the aforementioned Acts have passed as of March 2022, but support

for these measures is still prevalent. Many of these bills have been reintroduced in the House and the Senate over the past few years. These efforts show how attorneys, politicians, and activists also worked within the system to protect rights for migrants, using rhetoric that described them through dignity and humanity, and as deserving of healing and care. These frames contrast rhetorical pathology by centralizing migrants and building a community of activist supporters. The efforts of lawmakers here may not always have been instrumentally successful, but bringing these conversations into political discourse and trying to safeguard rights was an important constitutive endeavor nonetheless.

Despite the fact that none of these bills have passed, some positive legislative gains were made during the Trump administration. As discussed in Chapter One, Jane Doe was only able to access an abortion in ORR custody because of the work of legal activists from the American Civil Liberties Union. Brigitte Amiri, Deputy Director of the ACLU Reproductive Freedom Project (ACLU), helped take Doe's story out of secrecy and worked to have her abortion rights recognized by the courts. Not only did legislation help Doe access abortion while detained, but it also created a powerful precedent that protects abortion rights for undocumented people and across borders. Pro-migrant groups may not have been winning the war, but the battles were still important to fight.

### **Brown Women's Activist Challenges After Trump**

In this chapter, I have highlighted how Brown activist women resisted Trump's oppressive agenda. Through the rhetorical power of definition, rhetorical secrecy, and legislative activism, Brown women and their supporters combatted

pathology by creating their own sources of community care for one another. They appropriated, inverted, and weakened rhetorical pathologizations of migrants and abortion to transform a standard of reproductive harm into a model of care. This work can be important for other identities that have been pathologized and diseases that face social stigma like HIV and to some degree, Covid-19. As I conclude this chapter, two facts remain: (1) policymakers need to rely on community resources more. The women most affected by oppressive policies should be the ones listened to the most. And (2) despite unending challenges, Brown women find a way to have abortions.

Post-Trump, abortion advocates still face many challenges: they have to “appeal to new supporters, protect and empower communities, confront systemic oppression, dispel medically inaccurate” myths about abortion, account for differences in race, class, and gender in abortion access, and combat misinformation and misogyny.<sup>188</sup> They also have to be adaptable and account for new technologies and information tools. But history tells us that activists will continue to adapt and find new ways to access abortion in changing political climates. For instance, in 2022, activist Jex Blackmore took an abortion pill on live television during an interview with *Fox 2 Detroit*. This act of intentional disruption was meant to show the safety, ease, and commonality of abortion pills, in front of an audience who would likely respond with shock and disapproval. In the news segment, Blackmore encouraged viewers to stock up on abortion pills before *Roe* is overturned. Their video went viral on social media platforms, garnering millions of views and Blackmore told *Ms. Magazine* that many women were inspired to learn more about preparing for an anti-abortion future.<sup>189</sup>

Similarly, podcasts and films have been used as Brown women's activist tools to continue the fight post-Trump. A group called "Latino USA" on Apple Podcasts has episodes on a litany of issues from a "POC perspective," including ones on "Cross-Border Abortion Care" and "She Migrates."<sup>190</sup> Maya Cueva also released a series of documentary films that cover reproductive justice, xenophobia, and immigration. *The Provider*, *On the Divide*, *Only the Moon*, and most recently, *Ale Libre*, highlight the stories and struggles of both doctors trying to provide, and women trying to access, abortion against fears of criminalization and deportation.<sup>191</sup> Reproductive justice advocates often use artwork, poems, photos, and music to bring awareness to their movement. For instance, SisterSong, SisterFire, and All\* Above All have all led arts programs to support the creativity of RJ advocates, raise funds, and provide an outlet for women to tell their stories through art.<sup>192</sup> These mediums help spread the message, garner new supporters, and put a human face or voice on these political issues.

As abortion becomes more criminalized, handbooks and information on how to induce an abortion at home will be important tools for women who cannot find a way to a clinic, do not want to see a doctor, or cannot afford a procedure. Rebecca Chalker and Carol Downer's *A Woman's Book of Choices: Abortion, Menstrual Extraction, RU-486* (1992) and Robin Marty's *The New Handbook for a Post-Roe America: The Complete Guide to Abortion Legality, Access, and Practical Support* (2021; 2019) teach women do-it-yourself abortions and connect them with resources they might need throughout the process.<sup>193</sup> While some of these texts may not be written by migrant or Latinas specifically, they help provide resources for

communities that have been terrorized and targeted and might need reproductive options in the comfort of their own homes.

As shown, activists face many challenges, especially abortion and immigration activists who are fighting for highly-politicized rights. Abortion advocates face an uphill battle because as Marty puts it, it is hard to fight for and organize around a right that women “have.”<sup>194</sup> Activists also have to walk a fine line between extreme and insignificant tactics in order to be noticed and taken seriously by others. Matthew Feinberg, Robb Willer, and Chloe Kovacheff call this the “activist’s dilemma.” If activists rely on “extreme” tactics, “protest actions perceived to be harmful to others, highly disruptive, or both,” then they can lose support. People looking to join a social movement often do not like to see its activists engaging in harmful or “immoral behaviors.” On the other hand, what might be perceived as more outlandish or radical tactics are the same behaviors that get the most news coverage and bring awareness to the movement.<sup>195</sup> The activists’ dilemma particularly plagues women of color and migrant women. Brown women used a diversity of tactics, but their activism did not gain the caliber of media recognition that events hosted by Indivisible or the Women’s March received.<sup>196</sup>

Brown women’s pain also structured activism in the Trump era. Zavella explains that in the wake of Trump’s 2016 victory, many Brown women struggled with mental health issues. The stress and anxiety of Trump terror was traumatizing, especially for how it could affect potentially every aspect of their lives. Activists reported post-traumatic stress disorder, struggling with self-care, burnout, and feeling lost or hopeless. There were many workshops, conferences, and talks after Trump’s

election that helped rally supporters and breathe some energy back into their work. Some were able to channel fear, anger, and sadness into political feelings, but Zavella argues that many Black and Brown activists had to regroup and re-strategize to deal with the Trump years. She reports that despite the pain, many activists felt more focused and felt a keener sense of importance about their work.<sup>197</sup>

Even if activists do not always get the recognition they deserve, their work is incredibly important for women, their communities, the future of healthcare and abortion, and our understandings of gender and race—just to name a few. Jessica Gonzáles-Rojas, Executive Director of NLIRH, describes the necessity of activist work as such: “I think that is the essence of power, knowing that you have a voice and you can use that voice in ways that could create change. Power is the use of your bodily tools, your autonomy, to be able to effect change in society and break down the structural barriers that prevent our community from being healthy.”<sup>198</sup> Women find a way.

## Notes for Chapter Three

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<sup>1</sup> Qtd. in Adam Gabbatt, “Activism in the Age of Trump: Meet the Leaders of the Grassroots Resistance,” *The Guardian*, January 19, 2017, <https://www.theguardian.com/us-news/2017/jan/19/anti-trump-activists-protest-grassroots-leaders>.

<sup>2</sup> Qtd. in Associated Press, “Mexican Abortion Advocates Look to Help Women in US,” *NBC News*, January 19, 2022, <https://www.nbcnews.com/news/latino/mexican-abortion-advocates-look-help-women-us-rcna12792>.

<sup>3</sup> I am aware that there are more than these three events that people could point to in arguing that America is already pre-*Roe*. The three I picked are just the most pertinent to this project.

<sup>4</sup> Rickie Solinger, *Pregnancy and Power*, 2<sup>nd</sup> ed. (New York: NYU Press, 2019),

<sup>5</sup> Solinger, *Pregnancy and Power*, 259.

<sup>6</sup> Robin Marty, *The New Handbook for a Post-Roe America: The Complete Guide to Abortion Legality, Access, and Practical Support* (New York: Seven Stories Press, 2021).

<sup>7</sup> Darius Tahir, “A Hidden Abortion Crew Prepares to Confront a Post-Roe America,” *Politico*, July 6, 2021, <https://www.politico.com/news/2021/07/06/abortion-rights-supreme-court-states-restrictions-497821>.

<sup>8</sup> Susan Sontag, *AIDS and Its Metaphors* (New York: Farrar, Straus, and Giroux: 1989), 93.

<sup>9</sup> Stormer, *Sign of Pathology: U.S. Medical Rhetoric on Abortion, 1800s-1960s* (University Park, PA: Pennsylvania State University Press, 2015), 17.

<sup>10</sup> Stormer, *Sign of Pathology*, 183.

<sup>11</sup> “Brown women activists” is a broad category I use throughout the chapter. There is much overlap between the work of Brown women in the United States and in Central and Latin America. Migrant and documented women also work together closely in the United States. Much of the reproductive justice literature about Brown women’s reproductive health in the U.S. is written in terms of “Latina” activism. Many organizations like the National Latina Institute for Reproductive Health also use the word “Latina.” I try to differentiate between the terms when I can, but because of the overlap in terms in scholarship and across activist organizations, I use the broader frame of “Brown women.” I do say “migrant women” when I am sure of the woman’s immigration status in the U.S.

<sup>12</sup> Stormer, *Sign of Pathology*, 11.

<sup>13</sup> Jessica Gantt-Shafer, “They Just Went After Us:” Reproductive Justice Advocacy at an Abortion Fund,” *Frontiers in Communication* 5 (2020): 3.

<sup>14</sup> While the women discussed in this chapter might not self-identity as an “activist,” they are doing activist work by sharing their stories, through community involvement, and helping women find abortion care, writing their representatives, and various other actions that ultimately help individuals navigate oppressive systems or work to dismantle them as a whole.

<sup>15</sup> I analyze activist work from many organizations. This is not an exhaustive list, but the most prominent organizations I studied in this chapter are as follows: National Latina Institute for Reproductive Health, National Network of Abortion Funds, In Our Own Voice, SisterSong, COLOR, All\* Above All, If/When/How, Las Libres,

Plan C, Feminist Accompaniment, Sueños Sin Fronteras de Tejas, numerous abortion funds like the Lilith Fund, Mariposa Fund, Buckles Bunnies Fund, and many others.

<sup>16</sup> “The Hyde Amendment: A Legacy of Inequity,” *National Latina Institute for Reproductive Health*, March 2015,

[https://www.latinainstitute.org/sites/default/files/NLIRH\\_HydeAmendment\\_FactSheet\\_Eng\\_R11.pdf](https://www.latinainstitute.org/sites/default/files/NLIRH_HydeAmendment_FactSheet_Eng_R11.pdf).

<sup>17</sup> “Home/Inicio,” *Mariposa Fund*, n.d., <https://mariposafund.org/>; “Welcome to Access Reproductive Justice,” *Access Reproductive Justice*, n.d., <https://accessrj.org/>.

<sup>18</sup> Nick Fouriezos, “Meet the Women Fighting America’s Border Battle,” *OZY*, March 15, 2020, <https://www.ozy.com/the-new-and-the-next/immigration-remain-in-mexico-women-attorneys-trump/287537/>.

<sup>19</sup> Jael Silliman, Marlene Gerber Fried, Loretta Ross, and Elena Gutiérrez, *Undivided Rights: Women of Color Organizing for Reproductive Justice*, 2<sup>nd</sup> ed. (Chicago: Haymarket Books, 2016).

<sup>20</sup> Initial reports had the 2016 figure at 53-55% percent, but that was adjusted after exit polling completed. See: Ruth Igielnik, Scott Keeter and Hannah Hartig, “Behind Biden’s 2020 Victory,” *Pew Research Center*, June 30, 2021, <https://www.pewresearch.org/politics/2021/06/30/behind-bidens-2020-victory/>.

<sup>21</sup> Dorothy Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty* (New York: Vintage Books, 1997), 294.

<sup>22</sup> Silliman, Fried, Ross, and Gutiérrez, *Undivided Rights*, 222-223.

<sup>23</sup> Silliman, Fried, Ross, and Gutiérrez, *Undivided Rights*, 231.

<sup>24</sup> Silliman, Fried, Ross, and Gutiérrez, *Undivided Rights*, 225.

<sup>25</sup> “Reproductive Justice Media Reference Guide,” *Forward Together*, n.d., <https://forwardtogether.org/tools/media-guide-abortion-latinx-community/>,

<sup>26</sup> Silliman, Fried, Ross, and Gutiérrez, *Undivided Rights*, 233.

<sup>27</sup> Most organizations were concerned with reproductive autonomy as a whole, often beyond just focusing on abortion rights.

<sup>28</sup> Silliman, Fried, Ross, and Gutiérrez, *Undivided Rights*, 237.

<sup>29</sup> Silliman, Fried, Ross, and Gutiérrez, *Undivided Rights*, 239.

<sup>30</sup> Qtd. in Silliman, Fried, Ross, and Gutiérrez, *Undivided Rights*, 241.

<sup>31</sup> Silliman, Fried, Ross, and Gutiérrez, *Undivided Rights*, 295.

<sup>32</sup> Silliman, Fried, Ross, and Gutiérrez, *Undivided Rights*, 300.

<sup>33</sup> Solinger, *Pregnancy and Power*, 3.

<sup>34</sup> Solinger, *Pregnancy and Power*, 8.

<sup>35</sup> Solinger, *Pregnancy and Power*, 6.

<sup>36</sup> Trump called Clinton a “nasty woman” during a 2016 debate after she accused him of evading his taxes. The phrase became a rallying cry for Clinton supporters, who used it as a synonym for powerful women. See: Michelle Smirnova, “Small Hands, Nasty Women, and Bad Hombres: Hegemonic Masculinity and Humor in the 2016 Presidential Election,” *Socius: Sociological Research for a Dynamic World* 4 (2018): 1-16.

<sup>37</sup> “People Actually Want to Repeal Women's Right to Vote,” *TIME*, October 13, 2016, <https://time.com/4529800/donald-trump-women-voters-2/>.

<sup>38</sup> Negar Esfandiari and Madelyn McKeague, “Crossing the Intersection of Immigration and Reproductive Justice,” *National Women’s Health Network*, May 3, 2018, <https://nwhn.org/crossing-intersection-immigration-reproductive-justice/>.

<sup>39</sup> Maya Cueva, *Ale Libre*, directed by Maya Cueva (2021; A New Yorker Documentary: A Latinx Millennial’s Fight for Asylum in America), Online, *The New Yorker*, <https://www.newyorker.com/video/watch/a-latinx-millennials-fight-for-asylum-in-america>.

<sup>40</sup> “Introduction,” *Radical Reproductive Justice*, Loretta J. Ross, Lynn Roberts, Erika Derkas, Whitney Peoples, and Pamela Bridgewater Toure, Eds. (New York: Feminist Press: 2017), 14.

<sup>41</sup> National Latina Institute for Reproductive Health, “Advancing Reproductive Justice in Immigrant Communities: Promotoras/es de Salud as a Model,” *NLIRH*, 2010, <https://www.latinainstitute.org/sites/default/files/NLIRH-AdvancingRJ-ImmCommunities-Jan2010.pdf>.

<sup>42</sup> “Introduction,” 11.

<sup>43</sup> *Ibid.*, 12.

<sup>44</sup> *Ibid.*, 13.

<sup>45</sup> Francisco Valdes and Steven W. Bender, *LatCrit: From Critical Legal Theory to Academic Activism* (New York: NYU Press, 2021), 1.

<sup>46</sup> Daniel G. Solorzano and Dolores Delgado Bernal, “Examining Transformational Resistance Through a Critical Race and LatCrit Theory Framework: Chicana and Chicano Students in an Urban Context,” *Urban Education* 38, no. 3 (2001): 313.

<sup>47</sup> Valdes and Bender, *LatCrit*, 2.

- <sup>48</sup> Miras, “Resistance is Not Futile,” 932.
- <sup>49</sup> Alyson Farzad-Phillips, “Huddles or Hurdles? Spatial Barriers to Collective Gathering in the Aftermath of the Women’s March,” *Women’s Studies in Communication* 43, no. 3 (2020): 250.
- <sup>50</sup> Susan Bittenwieser, “Pro-Choice Groups Fighting Back Against Onslaught of Abortion Restrictions,” *National Latina Institute for Reproductive Health*, January 31, 2017, <https://www.latinainstitute.org/en/pro-choice-groups-fighting-back-against-onslaught-abortion-restrictions>.
- <sup>51</sup> “Latina Candidates in 2020,” *Center for American Women and Politics*, August 5, 2020, <https://cawp.rutgers.edu/blog/latina-candidates-2020>,
- <sup>52</sup> Avigail McClelland-Cohen and Camille G. Endacott, “The Signs of Our Discontent: Framing Collective Identity at the Women’s March on Washington,” *Communication Studies* 71, no. 5 (2020): 853.
- <sup>53</sup> Eliza Collins, “Trump Announces ‘Pro-Life Coalition’, Supports Making Hyde Amendment Permanent,” *USA Today*, September 16, 2016, <https://www.usatoday.com/story/news/politics/onpolitics/2016/09/16/trump-marjorie-dannenfelser-anti-abortion-rights/90431388/>.
- <sup>54</sup> Amanda Dennis, et al., “Strategies for Securing Funding for Abortion Under the Hyde Amendment: A Multistate Study of Abortion Providers’ Experiences Managing Medicaid,” *American Journal of Public Health* 101, no. 11 (2011): 2124.
- <sup>55</sup> Alyssa Engstrom, “The Hyde Amendment: Perpetuating Injustice and Discrimination After Thirty-Nine Years,” *Southern California Interdisciplinary Law Journal* 25 (2016): 451-452.

<sup>56</sup> Engstrom, “The Hyde Amendment,” 453.

<sup>57</sup> Representative Barbara Lee discusses this quote and Senator Hyde further. She said she heard Hyde say this quote when she was working as a staffer. See: “House Hearing on Abortion Affordability,” *C-Span*, December 8, 2020, <https://www.c-span.org/video/?507083-1/house-hearing-abortion-affordability>.

<sup>58</sup> Alexa Garcia-Ditta, “Reckoning with Rosie,” *Texas Observer*, November 3, 2015, <https://www.texasobserver.org/rosie-jimenez-abortion-medicaid/>.

<sup>59</sup> Becca Andrews, “Clinton and Sanders Just Weighed In on an Old Battle in the Fight for Reproductive Rights,” *Mother Jones*, February 11, 2016, <https://www.motherjones.com/politics/2016/02/hillary-clinton-and-bernie-sanders-abortion-policy/>.

<sup>60</sup> Alice Miranda Ollstein, “‘A Post-Roe Strategy’: The Next Phase of the Abortion Fight has Already Begun,” *Politico*, November 30, 2021, <https://www.politico.com/news/2021/11/30/roe-wade-strategy-scotus-abortion-523488>.

<sup>61</sup> Joshua C. Wilson, *The New States of Abortion Politics* (Redwood City, CA: Stanford University Press: 2016), ix.

<sup>62</sup> Danielle Kurtzleben, “With Biden In Place, The ‘Resistance’ Tries To Pivot From Defense To Offense,” *NPR*, January 22, 2021, <https://www.npr.org/2021/01/22/959177050/with-biden-in-place-the-resistance-tries-to-pivot-from-defense-to-offense>.

<sup>63</sup> Ollstein, “A Post-Roe Strategy.”

<sup>64</sup> Gray markets refer to unofficial markets, usually where products that are normally sold legally are sold without the brand's permission or for a different purpose than they were intended. For instance, abortion pills in the mail can be legal, but in this case, the pills had to bypass state laws or be distributed to people in a more underground, hushed manner.

<sup>65</sup> Associated Press, "Mexican Abortion Advocates Look to Help Women in US."

<sup>66</sup> "Abortion," *Gallup*, May 2021, <https://news.gallup.com/poll/1576/abortion.aspx>.

<sup>67</sup> B.J. Rudell, "Why the Pro-Choice Movement Must Go On the Offensive," *The Hill*, September 7, 2021, <https://thehill.com/opinion/campaign/571043-why-pro-choice-movement-must-go-on-the-offensive>.

<sup>68</sup> Robin Marty qtd. in Tahir, "A Hidden Abortion Crew Prepares to Confront a Post-Roe America."

<sup>69</sup> Zarefsky attributes this concept to William Riker's "heresthetic." See: William H. Riker, *The Art of Political Manipulation* (New Haven: Yale University Press, 1986), ix.

<sup>70</sup> "Trump Calls Migrant Caravans "Invasion" at Campaign Rally," *Reuters*, May 9, 2019, <https://www.reuters.com/video/watch/idOVAE6OFZ3>; Azam Ahmed, Katie Rogers, and Jeff Ernst, "How the Migrant Caravan Became a Trump Election Strategy," *New York Times*, October 24, 2018, <https://www.nytimes.com/2018/10/24/world/americas/migrant-caravan-trump.html>.

<sup>71</sup> David Zarefsky, "Presidential Rhetoric and the Power of Definition," *Presidential Studies Quarterly* 34, no. 3 (2004): 612.

<sup>72</sup> Patricia Zavella, *The Movement for Reproductive Justice: Empowering Women of Color Through Social Activism* (New York: NYU Press, 2020), 36.

<sup>73</sup> Bradford Vivian, *Public Forgetting: The Rhetoric and Politics of Beginning Again* (University Park, PA: Penn State University Press, 2010).

<sup>74</sup> Marshall Ganz, “Leading Change: Leadership, Organization, and Social Movements,” in *Handbook of Leadership and Practice*, Nitin Nohria, & Rakesh Khurana, Eds. (Boston, MA: Harvard Business Press, 2010), 8.

<sup>75</sup> Dushyanthi Hoole, “Suppression of Tamil Women’s Narratives in Sri Lanka,” *Critical Half: Women’s Narratives, War, and Peace-building*, 5, no. 2 (2007): 30.

<sup>76</sup> “Celebrate the Anniversary of 1969 Redstockings Abortion Speakout,” *Center for Reproductive Rights*, March 4, 2009, <https://reproductiverights.org/celebrate-the-anniversary-of-1969-redstockings-abortion-speakout/>.

<sup>77</sup> Gantt-Shafer, “They Just Went After Us,” 8.

<sup>78</sup> Silliman, Fried, Ross, and Gutiérrez, *Undivided Rights*, 300.

<sup>79</sup> National Latina Institute for Reproductive Health, “Advancing Reproductive Justice in Immigrant Communities: Promotoras/es de Salud as a Model,” 7.

<sup>80</sup> Zavella, *The Movement for Reproductive Justice*, 46.

<sup>81</sup> For about half of the video, speakers talk in English with Spanish subtitles. And in the other half, they speak in Spanish with English subtitles.

<sup>82</sup> “Soy Poderosa and My Voice Matters: Yo Te Apoyo, I Support You,” *NLIRH*, n.d., <https://www.latinainstitute.org/soypoderosa>.

<sup>83</sup> “Soy Poderosa and My Voice Matters: Yo Te Apoyo, I Support You.”

<sup>84</sup> Gantt- Schafer, “They Just Went After Us,” 10.

<sup>85</sup> “Soy Poderosa and My Voice Matters: Yo Te Apoyo, I Support You.”

<sup>86</sup> Colleen Ligibel, “Letter to the Editor: Protest in the Language the Supreme Court Uses,” *Washington Post*, July 7, 2016,

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<sup>87</sup> Qtd. in Bekah McNeel, “Texas Abortion Law Complicates San Antonio Group’s Mission to Help Undocumented Immigrants — Even Those Raped En Route to the U.S.,” *Texas Tribune*, November 12, 2021,

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<sup>88</sup> “Violence to Abortion Providers,” *Feminist Majority Foundation*, n.d.,

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<sup>89</sup> Qtd. in Zavella, *The Movement for Reproductive Justice*, 189.

<sup>90</sup> Maya Cueva, *Ale Libre*.

<sup>91</sup> Zavella, *The Movement for Reproductive Justice*, 189.

<sup>92</sup> Numerous abortion narratives are provided on the *WeTestify* site. See: “Our Stories,” *WeTestify*, n.d., <https://www.wetestify.org/stories#storytellers>. Many of the same people who work with *WeTestify* shared their stories more in-depth in a *Refinery29* article. See: Mirel Zaman, “This is the Perfect Reason to Have an Abortion,” *Refinery29*, October 20, 2020, <https://www.refinery29.com/en-us/2020/10/10015330/reasons-for-abortion-stories-women>.

<sup>93</sup> “Abortion Is a Blessing,” *Lilith Fund*, n.d., <https://www.lilithfund.org/blessing/>.

<sup>94</sup> The seven organizations are the American Civil Liberties Union, American Immigration Council, American Immigration Lawyers Association, Center for Gender and Refugee Studies, Northwest Immigrant Rights Project, Refugee and Immigrant Center for Education and Legal Services, and Women’s Refugee Commission.

<sup>95</sup> American Civil Liberties Union, et al., “Re: U.S. Immigration and Customs Enforcement’s Detention and Treatment of Pregnant Women,” *ACLU*, September 26, 2017, [https://www.aclu.org/sites/default/files/field\\_document/revisedcomplaintcrcl\\_oigpregnantwomenicecustody11.13.17.pdf](https://www.aclu.org/sites/default/files/field_document/revisedcomplaintcrcl_oigpregnantwomenicecustody11.13.17.pdf).

<sup>96</sup> The women’s narratives are on pages 5-12 of the complaint, see: American Civil Liberties Union, et al., “Re: U.S. Immigration and Custom’s Enforcement’s Detention and Treatment of Pregnant Women.”

<sup>97</sup> Associated Press, “Mexican Abortion Advocates Look to Help Women in US.”

<sup>98</sup> Natalie Fixmer-Oraiz, *Homeland Maternity: US Security Culture and the New Reproductive Regime* (Urbana: University of Illinois Press: 2019), 141.

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<sup>100</sup> Laura Kaplan, *The Story of Jane: The Legendary Underground Feminist Abortion Service* (Chicago: University of Chicago Press, 1995).

<sup>101</sup> Katie Monroe, “‘Radical Acts of Community Care’: Lessons from Bail and Abortion Funds,” *Kennedy School Review*, September 17, 2019,

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<sup>103</sup> Lilith Fund Board and Staff, “We Resolve to Resist in 2017,” *Lilith Fund*,

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<sup>109</sup> Monroe, “Radical Acts of Community Care.”

<sup>110</sup> “About,” *National Network of Abortion Funds*, n.d.,

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<sup>111</sup> “About Us,” *COLOR*, n.d., <https://www.colorlatina.org/about-us/>.

<sup>112</sup> Jonathan Allen and Mark Joseph Stern, “Mississippi Claims Its Abortion Ban Will ‘Empower’ Women,” *Slate*, September 27, 2021, <https://slate.com/news-and-politics/2021/09/mississippi-abortion-maternal-infant-mortality.html>.

<sup>113</sup> The introduction discusses incidents like Purvi Patel who was arrested over suspicious that her miscarriage was actually an abortion attempt. See also: Jeanne Flavin, *Our Bodies, Our Crimes: The Policing of Women’s Reproduction in America* (New York: NYU Press, 2008).

<sup>114</sup> The group was formerly called “SIA: Self-Induced Abortion Legal Team” but has since been renamed was “If/When/How. See: “Repro Legal Defense Fund,” *If/When/How*, n.d., <https://reprolegaldefensefund.org/>.

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<sup>117</sup> “Abortion Funds 101,” *NNAF*, n.d., <https://abortionfunds.org/about/abortion-funds-101/>.

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<sup>120</sup> National Latina Institute for Reproductive Health, “Advancing Reproductive Justice in Immigrant Communities: Promotoras/es de Salud as a Model,” 7-9.

<sup>121</sup> Elizabeth Estrada qtd. in Lizzie Widdicombe, “A Reproductive-Rights Activists Explains the Realities of Abortion for Latina Women,” *The New Yorker*, January 26, 2022, <https://www.newyorker.com/news/as-told-to/a-reproductive-rights-activist-explains-the-realities-of-abortion-for-latina-women>.

<sup>122</sup> Alyssa Biederman, “Promotoras: A Community Model with Heart — and Teeth,” *Generocity*, June 10, 2020, <https://generocity.org/philly/2020/06/10/promotoras-a-community-model-with-heart-and-teeth/>.

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<sup>127</sup> Natalie L. Kimball, *An Open Secret: The History of Unwanted Pregnancy and Abortion in Modern Bolivia* (New Brunswick, NJ: Rutgers University Press, 2020), 37.

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<sup>129</sup> David Goldenberg, "The Right to Abortion: Expansion of the Right to Privacy Through the Fourteenth Amendment," *The Catholic Lawyer* 19 (1973): 36-57; Linda J. Wharton, "Roe at Thirty-Six and Beyond: Enhancing Protection for Abortion Rights Through State Constitutions," *William and Mary Journal of Race, Gender, and Social Justice* 15 (2009): 469-534.

<sup>130</sup> *Roe et al. v. Wade, District Attorney of Dallas County*, 410 U.S. 113 (1973).

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<sup>132</sup> Barbara Welter, "The Cult of True Womanhood: 1820-1860," *America Quarterly* 18, no. 2 (1966): 151-174.

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<sup>134</sup> Adam D. Galinsky, et al., "The Reappropriation of Stigmatizing Labels: The Reciprocal Relationship Between Power and Self-Labeling," *Psychological Science* 24, no. 10 (2013): 2020.

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<sup>146</sup> Black, “Secrecy and Disclosure as Rhetorical Forms,” 148.

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<sup>168</sup> Celeste Condit, *Decoding Abortion Rhetoric: Communicating Social Change* (Urbana: University of Illinois Press, 1990), 97.

<sup>169</sup> Condit, *Decoding Abortion Rhetoric*, 117.

<sup>170</sup> I do not mean this as a staunch defense of politicians. I am only defending my decision to include legal activism for those who might argue that legal work “does not count” as activism or that politicians’ work cannot be considered activist because they likely benefit from it.

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<sup>181</sup> Sen. Cory Booker, “Dignity for Detained Immigrants Act of 2019,” *United States Senate*, 116<sup>th</sup> Congress, April 30, 2019, <https://www.congress.gov/bill/116th-congress/senate-bill/1243>.

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*Personality and Social Psychology: Interpersonal Relations and Group Processes*

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<sup>196</sup> Indivisible defines itself as “a movement of thousands of group leaders and more than a million members taking regular, iterative, and increasingly complex actions to resist the GOPs agenda, elect local champions, and fight for progressive policies” brought together by “a practical guide to resist the Trump agenda.” See: “About,” *Indivisible*, n.d., <https://indivisible.org/about>.

<sup>197</sup> Zavella, *The Movement for Reproductive Justice*, 189.

<sup>198</sup> Qtd. in Zavella, *The Movement for Reproductive Justice*, 47.

Conclusion: Permanent Pathology? The Lasting Implications of Rhetorical Pathology  
and its Effects on Migrant Women's Reproductive Autonomy

Imagine a protest where participants carry signs that read, "My Body, My Choice." Before 2020, one would likely assume it was a rally for reproductive rights and reproductive justice, and they would probably be right. But after March 2020, the protestors at the rally in question could be very different ideologically and politically than the people at "My Body, My Choice" rallies before 2020. The Covid-19 pandemic shook the entire world, and we saw numerous anti-vaxxers adopt the slogan "My Body, My Choice" to oppose mask and vaccine mandates across the United States. Protest signs and t-shirts at their rallies also iterated phrases like "Anti-Vax, Pro-Choice."<sup>1</sup> These slogans are yet another example of how white supremacist patriarchy co-opts progressive language to weaken and dismantle their arguments. The anti-Covid-vax movement in the United States, made up of many white conservatives, mimicked pro-choice rhetoric in a time where abortion rights were gravely under siege.<sup>2</sup>

Conservative co-option of progressive slogans has four primary consequences that I have identified. First, it weakens pro-choice arguments. Now that the slogan is associated with people feminists oppose ideologically, they may be less likely to use the slogan. They either have to adopt new frames or risk being associated with anti-vaxxers and anti-maskers. Feminists might throw away that t-shirt or that key chain that once promoted the slogan. We saw this with the word "woke"; out-of-touch liberal elites used the term to appear "awake" to social injustices and conservatives used it to insult "sensitive liberal snowflakes." These uses made "woke" lose its

original meaning as a term created by Black Americans and it quickly became “corny” to use it.<sup>3</sup> Alex Bing argues that “my body, my choice” is still a feminist rallying cry even after the anti-vax movement co-opted it,<sup>4</sup> but I suspect that feminists will either use it less because of its conservative associations, or use it twice as much to reclaim the phrase as theirs in upcoming years. Time will tell whether this slogan will have future political traction, and with which groups.

Second, co-opting progressive discourses also falsely equates political and social issues. In this case, reproductive autonomy is framed similarly to the “right” not to wear a mask or get a vaccine. A personal abortion choice is vastly different from wearing a mask to protect public health and safety, especially in a very deadly, global pandemic. This project has traced many instances where overlapping rhetorics try to falsely equate issues, like slogans that compare the rights of the enslaved to the rights of fetuses. Third, conservative co-option helps legitimize their movements and their goals. Anti-maskers and anti-vaxxers appeared more legitimate when they started having protests, selling t-shirts, organizing “freedom convoys,” and sharing stories on social media of their “discrimination.”<sup>5</sup> They also appear like a larger, more powerful movement than perhaps they are. Similarly, this messaging distracts from feminist movement messaging, which was especially important as Covid-19 protests coincided with state legislatures passing extreme abortion bans across the country.

Lastly, mimicking these strategies ensures that white supremacy and patriarchy remain dominant unifying ideologies. Here, members of dominant groups choose which bodies are worth protecting. As shown through this project, they view

migrant women as things to be controlled and objects to assert their supremacy over. But through the anti-vax movement, white supremacist patriarchy protects the rights of conservative people who are alleged “victims” of a liberal agenda that “forces” them to wear masks or get vaccinated. As a group, they suggest they are “discriminated against,” and these instances give credence to their arguments that it is a “very scary time for young men in America.”<sup>6</sup> Trump and Brett Kavanaugh both tapped into these feelings of white male resentment over notions that they were losing privilege by having to answer questions about their illegal sexual behavior and misogynous statements.<sup>7</sup> White supremacist patriarchy allows for white men to determine who is a victim and who should be allowed to exert bodily autonomy.

Conservative co-option of progressive arguments in the name of white supremacist patriarchy weakens pro-choice and reproductive justice movements. In this concluding chapter, I trace three major implications about the Trump administration and its conservative allies’ use of rhetorical pathology to vilify and erode migrant women’s abortion rights. First, I argue that women will always find a way to help each other access abortion care, even in tumultuous political climates. Second, I stress how rhetorical pathology is powerful, horrific, and hypocritical. Rhetorical pathology has tangible, dehumanizing consequences for the groups that white America asserts its supremacy over. It also is ripe with inherent contradictions that are ignored or glossed over by those who traffic in white supremacy and patriarchy. And third, I argue that anti-choice and pro-choice groups battle for rhetorical control over the same political terms and activist slogans in abortion debates. Abortion discourse is not only important for the right to terminate a

pregnancy, but it also informs debates about birth control, emergency contraception, and women's suffrage. In addition, abortion rhetoric shapes our understandings of gender, sexuality, sex, race, nationality, and class. I discuss these three major implications by recapping key arguments from the project and its specific chapters. I conclude with a discussion of rhetorical pathology's lasting power in the wake of Trump's presidential defeat.

### **Project Implications**

#### *Women Find a Way*

The first implication, and the most important to me personally, is that this project shows the unbelievable power of women to work together and speak back to oppressive regimes. In the introduction, I outlined numerous instances in American history where abortion was criminalized, illegal, or unavailable. Even in ancient and primitive societies, women still found ways to have an abortion and take control over their reproduction. Similarly, Brown women's activism in Chapter Three highlights women's ability to care for one another and the great lengths they will go to in order to have an abortion themselves or to help someone in their community access one. Brown women activists also spoke back to white supremacist patriarchy through the rhetorical power of definition. Through narrative and by asserting reproductive power in their communities, these women found empowerment in their abortion stories and by helping others access abortion care. Brown women relied on abortion funds, *promotoras* healthcare models, informal networks, and social media to provide abortion access to communities with little resources or in situations where women could be arrested or deported for seeking healthcare.

Brown women also reclaimed rhetorical secrecy, transforming it from something inflicted on them by the state into something they would mobilize to their advantage. Because rhetorical pathology harms Others, the rhetorics used to combat pathology emphasized care. Through the pro-migrant legislation discussed in Chapter Three, we saw care, healing, and dignity used to describe migrant women in efforts to dismantle rhetorical pathology and centralize migrant women's experiences with reproductive abuse. These rhetorical strategies help define abortion on their own terms, which was a powerful pushback to rhetorical pathology. The state was inflicting horrible abuses on migrant communities, but the migrant women at the heart of this project found ways to help their communities and speak back to oppressive policies and rhetorics.

As such, a timeless takeaway from this project is that women know what is best for themselves and women will find a way to access reproductive healthcare. As Shirley Chisolm stated, abortion is a "fact of life" and a practice that cannot be stopped.<sup>8</sup> The Supreme Court will likely overturn *Roe v. Wade*, which will be devastating for women's health and women's rights, but women are resourceful and will continue to care for each other. Black and Brown women already have vast networks to help women afford and access abortion care. Abortion access has been slowly eroding since *Roe* and many feminist women's organizations have been preparing for this eventuality.<sup>9</sup> Black and Brown women are the leaders of the reproductive justice movement and their expertise and experiences must be valued in abortion discourse.

Similarly, this project exemplifies the power of women's voices and stories, especially migrant women who the state intentionally silences. Campaigns like #BelieveWomen and #TrustWomen highlight the power of women's stories and expertise. A common argument in anti-choice circles is that abortion should be regulated differently than other rights because women cannot be trusted. They cannot be trusted to know what is in their best interest or "act responsibly" with their own bodies. This is especially true for migrant women who the white supremacist patriarchy has vilified as ignorant or untrustworthy based on racist assumptions about the language they might speak, their nationality, or their ethnicity. Counter-strategies like #BelieveWomen and #TrustWomen try to bring awareness to the fact that women's competency and intelligence are often questioned or actively denied, but these movements sometimes erase Black and Brown women. Their unique experiences are overlooked or ignored by white feminists who want to talk about their problems, and do not want to take on the work of racial equality or give up any of their privileges. Through LatCrit and feminist approaches, I have tried to show the importance of migrant women's narratives and how they spoke back to power even as they experienced unimaginable abuses during the Trump era. Women are resilient and the tenacity of women in communities of color shows how their love and care for one another makes alleviating oppression possible.

*Rhetorical Pathology Is Powerful, Horrific, and Hypocritical*

A key takeaway from this project is how devastatingly powerful rhetorical pathology was for migrant women during the Trump administration. Rhetorical pathology helped justify Trump's horrific and inhumane policies like mass

deportation, family separation, Zero Tolerance, and detaining pregnant women in immigration custody. It also helped dehumanize, punish, and debilitate migrant women; they were treated as criminals, leeches, and exploiters of taxpayer dollars. Migrant women were treated not as “people for constitutional purposes” but as “drains on American resources.” In Chapters One and Two, we saw the devastating effects of rhetorical pathology on the reproductive rights of migrant women. Trump helped create the “migrant” problem so that he could solve it with his anti-abortion and anti-migrant agenda and garner support among his base. The abuses they faced in the Office of Refugee Resettlement (ORR) and Immigration and Customs Enforcement (ICE) custody were horrific, but migrant women also faced reproductive punishments outside of the detention centers through policies like conscience legislation and family separation. Through rhetorical pathology, migrant women were necessary casualties in upholding a forced birth, anti-migrant agenda.

Another important implication from this project is how deeply connected white supremacy and patriarchy are and how they work together to inflict pathology onto other people’s identities. Racism and misogyny are entangled and co-constitutive. As such, white supremacy and patriarchy significantly shape abortion politics. They determine who can safely and freely reproduce or not reproduce. Together, these two ideologies justified Trump’s forced birth policies, restricted migrant women’s access to abortion care, and led to reports that many migrant women were forcefully sterilized while detained in ICE custody.<sup>10</sup> White supremacist and patriarchal ideologies have also stoked fears among conservatives about replacement theory and the notion that white people are being (and will continue to

be) overpopulated and overpowered by people of color in the United States. These fears manifested in discourses that ridicule white women for not having children or for not having enough children to “advance the future of the race.”<sup>11</sup> It also justified eugenic policies that regulate migrant women’s reproduction according to white patriarchal values and power. We also saw in Chapter Two how migrant women could be deported for accessing an abortion or reproductive healthcare because ICE officers were stationed outside of abortion clinics.<sup>12</sup> Because white supremacy and patriarchy work in service of each other, their goals have to align. For instance, white supremacists cannot alienate those who disapprove of all abortions by encouraging women of color to abort.<sup>13</sup> White patriarchy safeguards its supremacy by creating a common enemy that it can exercise power over.<sup>14</sup> Under the Trump administration, migrant women were a vulnerable target that white supremacists could prey on to enact an anti-abortion agenda.

White supremacist patriarchy also characterizes the “humanity” of fetuses as more important than the humanity of women in general, but especially the humanity of women of color. Through “Babies Lives Matter” discussed in Chapter Two, anti-abortion groups have undermined anti-racist campaigns like Black Lives Matter by co-opting their slogan. They lay claim to the moral high ground and manipulate social justice rhetoric to argue that their anti-abortion views make them “saviors” of Black and Brown lives. Because they save babies of color from women of color, anti-abortionists frame themselves as abolitionists, social justice warriors, and the *real* ones fighting for equality.<sup>15</sup> Progressives may claim to care about racial justice and gender equality, but their support for abortion makes them the hypocritical ones

according to anti-abortion rhetoric. The anti-abortion argument that fetuses are the “new oppressed minority” that must be protected to achieve equal rights in America devalues the humanity of women of color. The rights of unborn fetuses are more important than the rights of women of color. This argument also dehumanizes people of color who are murdered and oppressed in the United States, which the Black Lives Matter movement exposes and organizes against. Yet, the “pro-life” movement claims the moral high ground and advocates for concepts like fetal personhood, while devaluing the lives of women of color. This project demonstrates how the key question in abortion debates is not whether fetuses are human, but whether women are.

As shown through debates over whose “lives matter,” rhetorical pathology is hypocritical and inherently contradictory. This project has outlined numerous contradictions embedded in discourses about migrant women’s reproduction. Migrant women must not reproduce and if they do, they could be deported and their children would be denied citizenship protections and access to appropriate healthcare. Migrant women must also not have abortions because that is against pro-life values and against gender roles that primarily value women in terms of their reproduction. Migrant women’s fetuses may neither be killed, nor born alive and healthy. Future babies could eventually outnumber and disempower white people and “takeover” America from white people. At the same time, migrant and BIPOC fetuses must be saved so anti-abortionists can claim the moral high ground, but living people of color should not have the same rights and opportunities as white people and should be content with their oppression. Migrant women moreover must disclose deeply

personal information to the state but should not share their stories with the press or draw attention to their abuse. These hypocrisies justify reproductive control over migrant women and ensure that white patriarchy has someone to assert dominance over in order to claim their “rightful” status at the top of gender and race hierarchies.<sup>16</sup>

Another inherent hypocrisy in abortion politics is who is allowed to exercise bodily autonomy. As shown through the opening example to this chapter, anti-vax and anti-mask people have co-opted rhetorics about bodily autonomy from feminists. In an anti-vax essay, “Why I Didn’t Get the Covid Vaccine,” by theologian Peter Leithart, he argues against governments forcing people to do certain things with their bodies. He says, “Once upon a time, the ruler bore a sword; now, a syringe.”<sup>17</sup> This essay is one example of how anti-vaxxers argue against government imposition into people’s bodies, and yet, these are the same people who do not support abortion rights and women’s bodily autonomy. Under this logic, the right to bodily autonomy excludes women’s reproductive choices.

If white conservatives support “choice” and “bodily freedom,” they should belong on the feminist side of the abortion debate that supports reproductive options. But they do not want everyone to have choice and freedom because they need someone to control in order to assert their supremacy. Michelle Goldberg explains, “It’s striking, the gap between the bodily impositions people on the right will accept in their own lives and those they impose on others. . . Choices, it seems, aren’t for everybody.”<sup>18</sup> White men deserve bodily autonomy and white women can support them through anti-vax and anti-mask policies, but their advocacy needs to stop there.

(White) Women are useful when they can support white men, but should not try to advocate for other rights that make women harder for white patriarchy to control.

*Key Battles over Abortion Rights are Fought Rhetorically*

Rhetorical struggles over “my body, my choice,” are just one of the latest battles over which side of the abortion debate gets to lay claim to certain arguments and terms. This project has shown how anti-abortion groups argue that abortion is violent and harmful while feminists assert that it is violent and harmful to deny women an abortion. It is especially violent to deny a woman an abortion if they say that they plan to self-harm if they cannot access an abortion, like Jane Doe.<sup>19</sup> Similarly, both sides argue that abortion is regulated “exceptionally”; the anti-choice crowd claims that abortion is granted unfair privileges in the law while pro-choice groups argue that abortion is regulated more harshly and severely than other medical procedures and constitutional rights.<sup>20</sup> We saw both sides advocate for sanctuary cities for the unborn and for migrants. Both sides have claimed to be discriminated against—conservatives feel they are a new oppressed minority while feminists fight for gender and racial equality.<sup>21</sup> In addition, abortion supporters have argued that they are “pro-woman” because they advocate for women’s bodily autonomy, which would make them more equal to men. And anti-choice people assert that they are “pro-woman” because women “deserve better” than abortion and that abortion rights actually “harm” them.<sup>22</sup>

I could continue this list of examples but the point is that there is so much controversy about which group gets to claim which terms, reinforcing the rhetorical battle over women’s reproductivity. It matters how we talk about abortion. Abortion

rhetoric influences how abortion rights are legislated and shapes access to abortion across the country. It can shape women's willingness to have an abortion and medical students' willingness to study abortion care or become abortion providers themselves. Abortion stigma can either alienate some women from their families or their communities and continue to be seen as a sign of pathology, immoral, or sinful. Or abortion rights can be viewed as life-affirming and about increasing women's bodily autonomy, agency, and control over their lives and futures. A reproductive justice orientation towards abortion rhetoric can also lead to more equitable abortion access and prioritize Black and Brown struggles in abortion debates.<sup>23</sup>

Moreover, the rhetoric of abortion debates does not just affect abortion. It affects our broader understandings of gender, sexuality, and sex. Abortion access is racist and classist, and tells us about whose lives are valued in white patriarchy. Abortion rhetoric also infects other rights.<sup>24</sup> Criminalizing abortion has led to criminalization of miscarriages. It can be hard to discern the intent behind a miscarriage and so women like Purvi Patel have been arrested on suspicion of abortion.<sup>25</sup> Abortion regulations have also affected access to emergency contraception (EC), especially when conservatives try to argue that EC pills like Plan B are abortifacients.<sup>26</sup> Birth control rights will likely be the next major fight as anti-choice groups are already planning to attack contraceptive rights. And as mentioned in Chapter Three, some radical conservatives have advocated for repealing women's right to vote.<sup>27</sup> Abortion rights are important, but the general valuing of women's bodily autonomy has significant impacts beyond the right to terminate a pregnancy.

## Rhetorical Pathology After Trump

Rhetorical pathology in this project was rooted in white anxieties over migrant women's reproduction. Their reproduction needed to be controlled by white patriarchy, based on fears over what certain groups of people will do if their behaviors are not hyper-controlled and closely regulated. This same fear was present in Susan Sontag's study on the AIDS crisis. She argues that gay people in the 1980s were pathologized because of their "lifestyle behaviors" and because of the ignorant argument that they were solely to blame for the AIDS epidemic. This case study shows how homophobia, another ideology that unifies conservatives, is used to vilify Others.<sup>28</sup> Because homophobia, white supremacy, and patriarchy are powerful ideologies that demonize anyone outside of a narrow identity, rhetorical pathology will appear in new political controversies in the future of American politics. Transgender people are being pathologized in order to deny them basic human rights in places like Florida and Arkansas.<sup>29</sup> And the Covid-19 pandemic pathologized Chinese people as Trump and other extremists blamed China for the "Kung-Flu" and "Chinese virus."<sup>30</sup> Rhetorical pathology also has tangible consequences as we have seen with an increase in hate crimes towards Asian Americans in the United States since the pandemic,<sup>31</sup> anti-trans legislation across the nation, and, of course, the atrocious things that migrant women faced in ORR and ICE custody like being left bleeding for hours and having untreated infections.

As the anti-abortion movement gains power and will likely overturn *Roe v. Wade*, their use of rhetorical pathology to vilify abortion and the women who will still have them will be important to dissect and disempower. The anti-abortion

movement claims the moral high ground through rhetorical pathology. For them, the greatest moral good is getting others to realize that abortion is murder.<sup>32</sup> When they affirm hierarchies among groups of people, they position themselves as ideologically and morally pure victims who need to protect themselves from those who engage in immoral behaviors like border crossing and abortion. First, they must protect themselves and their whiteness, then they need to save or systematically exclude those who threaten their hegemony. The anti's claim to the moral high ground gives them the power to pathologize Others and to talk about abortion through emotion-laden rhetoric. Progressives then face an uphill battle when they try to combat emotionally charged anti-abortion rhetoric. Using facts and logical reasoning can be less effective in countering hyperbolic arguments from the anti-abortion movement. Rational arguments only appeal to certain types of listeners and voters and are less attractive than sensational, ridiculous claims about doctors murdering babies after birth.<sup>33</sup>

Because of this, I share, to an extent, Nathan Stormer's argument that a new rhetoric is needed to de-pathologize abortion and immigration. I agree that abortion advocacy needs to make listeners and voters feel like they have more at stake in abortion debates, but I do not think all is lost or broken. A person might not understand the importance of abortion rights unless they experience pregnancy themselves or through the experiences of someone close to them. One of the anti-abortion movement's strengths is making its supporters feel victimized by abortion, but also empowered to eradicate it. Progressive rhetoric has to "build a bridge to empathy" to get more people involved with abortion and to understand how these

rights affect them, even if they are not currently pregnant or could never be pregnant. We need a more prominent shared value that people can organize around. Abortion cannot remain an issue that some people do not pay attention to “until it happens to them.”<sup>34</sup> In addition, we need to bridge the disconnect between politicians and grassroots organizing. We need to work together more and to have clearer policy goals. White feminists and pro-choice-only feminists are weakening both the movement and the overall fight for bodily autonomy. These “feminists” often ignore or overlook racial equity or do not advocate for reproductive rights for transgender, gender non-confirming, agender, or non-binary persons.<sup>35</sup> White feminists are exclusionary and misrepresent what I think feminism should be about. We need to unify around a gender-inclusive and racial-justice framework by rallying for reproductive justice. White supremacist patriarchy is powerful, but there are more of us it harms than it helps.

There were many wars to fight during the Trump administration, so progressives had to split their focus and focus more on triage and survival. Joshua Wilson argues that Trump did make “abortion more of a priority for Democrats,” but the party needs to capitalize on this momentum.<sup>36</sup> The humanity, bodily autonomy, and safety of so many people, including the migrant women at the heart of this project, are at stake. Progressives need to be ready to counter rhetorical pathologizations that conservatives will undeniably rely on to advance their policy goals. We need to center the voices of people of color, women, and migrant communities in order to create a better society. It is an uphill battle fighting rhetorical pathology, but as Susan Sontag says, it is “worth challenging.”<sup>37</sup>

## Notes for the Conclusion

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<sup>4</sup> Bing, “In ‘Freedom Convoy.’”

<sup>5</sup> Bing, “In ‘Freedom Convoy.’”

<sup>6</sup> Trump said this quotation in reference to Brett Kavanaugh’s confirmation hearings.

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<sup>7</sup> Rebecca A. DiBennardo, “Ideal Victims and Monstrous Offenders: How the News

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<sup>8</sup> Shirley Chisholm, *Unbought and Unbossed: Expanded 40<sup>th</sup> Anniversary Edition* (Boston: Take Root Media, 2010), 111.

<sup>9</sup> Jessica Pinckney, “We Don’t Need an ‘Abortion Underground Railroad’—Black and Brown People Already Lead the Most Powerful Abortion Fund Network in the Country,” *Prism Reports*, December 15, 2021,

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<sup>10</sup> A whistleblower, Dawn Wooten, came forward about many sterilizations she heard about from working as in ICE facilities. See: Project South, et al., “Re: Lack of Medical Care, Unsafe Work Practices, and Absence of Adequate Protection Against COVID-19 for Detained Immigrants and Employees Alike at the Irwin County Detention Center,” *Project South*, September 14, 2020, <https://projectsouth.org/wp-content/uploads/2020/09/OIG-ICDC-Complaint-1.pdf>.

<sup>11</sup> Nellie Bowles, “‘Replacement Theory,’ a Racist, Sexist Doctrine, Spreads in Far-Right Circles,” *New York Times*, March 18, 2019,

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<sup>12</sup> “Reproductive Healthcare Access Limited for Many Undocumented Women,” NBC, December 18, 2018, <https://www.nbcwashington.com/news/national-international/undocumented-women-reproductive-healthcare-access/2032632/>.

<sup>13</sup> Pam Chamberlain and Jean Hardisty, “Reproducing Patriarchy: Reproductive Rights Under Siege,” *The Public Eye: A Publication of Political Research Associates* 9, no. 1 (2000): 1-24.

<sup>14</sup> Angie Maxwell and Todd Shields, *The Long Southern Strategy: How Chasing White Voters in the South Changed American Politics* (New York: Oxford University Press, 2019).

<sup>15</sup> Carter Sherman, “Why ‘Baby Lives Matter’ Messages Are Popping Up All Over the US,” VICE, September 17, 2020, <https://www.vice.com/en/article/9354a5/baby-lives-matter-how-the-anti-abortion-movement-co-opted-the-language-of-racial-justice>; Jennifer L. Holland, *Tiny You: A Western History of the Anti-Abortion Movement* (Oakland: University of California Press, 2020), 4-5.

<sup>16</sup> Rachel Alicia Griffin, “Black Women’s Intellectualism and Deconstructing Donald Trump’s Toxic White Masculinity,” *Interrogating the Communicative Power of Whiteness*, eds. Dawn Marie D. McIntosh, et al. (New York: Routledge Press, 2019): 70-71.

<sup>17</sup> Peter Leithart, “Why I Didn’t Get the Covid Vaccine,” *First Things*, September 13, 2021, <https://www.firstthings.com/web-exclusives/2021/09/why-i-didnt-get-the-covid-vaccine>.

<sup>18</sup> Michelle Goldberg, “What ‘My Body, My Choice’ Means to the Right,” *New York Times*, November 29, 2021, <https://www.nytimes.com/2021/11/29/opinion/abortion-vaccine-mandate.html>.

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- <sup>20</sup> Caroline Marla Corbin, “Abortion Distortions,” *Washington and Lee Law Review* 71, no. 2 (2014): 1175-1210.
- <sup>21</sup> Shannon Najmabadi, “Lubbock Votes to Become the State’s Largest “Sanctuary City for the Unborn,” *Texas Tribune*, May 1, 2021, <https://www.texastribune.org/2021/05/01/lubbock-abortion-vote-sanctuary-unborn/>.
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- <sup>23</sup> Loretta Ross and Rickie Solinger, *Reproductive Justice: An Introduction* (Berkeley: University of California Press, 2017).
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<sup>28</sup> Susan Sontag, *AIDS and its Metaphors* (New York: Farrar, Straus and Giroux, 1989).

<sup>29</sup> For more information, see: Samantha Riedel, “Here’s All the Anti-Trans Legislation That Moved Forward This Week,” *Them*, March 10, 2022, <https://www.them.us/story/dont-say-gay-bill-anti-lgbtq-legislation-florida-idaho>.

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<sup>32</sup> Holland, *Tiny You*, 211.

<sup>33</sup> “Changing the Way We Talk about Abortion,” Ordinary Equality, podcast audio, April 7, 2021, [https://ordinary-equality.simplecast.com/episodes/changing-the-way-we-talk-about-abortion-A4ONS\\_8H](https://ordinary-equality.simplecast.com/episodes/changing-the-way-we-talk-about-abortion-A4ONS_8H).

<sup>34</sup> “Changing the Way We Talk about Abortion.”

<sup>35</sup> Rachel Elizabeth Cargle, “When Feminism Is White Supremacy in Heels,” *HarpersBazaar*, August 16, 2018,

<https://www.harpersbazaar.com/culture/politics/a22717725/what-is-toxic-white-feminism/>.

<sup>36</sup> Qtd. in Abigail Abrams, “What President Biden's State of the Union Says About the Politics of Abortion,” *TIME*, March 2, 2022, <https://time.com/6153102/biden-abortion-state-of-the-union/>.

<sup>37</sup> Sontag, *AIDS and Its Metaphors*, 93.

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