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### TABLE OF CONTENTS

Newest Anti-Choice Scare Tactic: Ultrasounds  
Glossary: Preliminary Injunction  
Reproductive Rights and HIV/AIDS  
Take Action: End Funding Restrictions on Abortion  
Q and A: Dr. Nikhil Datar on India's Abortion Law  
Other News and New Publications



“...These laws are not about information. They are being used as scare tactics...and get in the way of good medical care.”

### Newest Anti-Choice Scare Tactic: Ultrasounds

Imagine this: you are an Oklahoma woman who, for whatever reason, has made the difficult decision to end a pregnancy. You arrive at one of the three abortion clinics in the state, only to find out that, whether you want to or not, you have to have an ultrasound and listen to your doctor describe the image.

The doctor has to tell you how many fingers and toes are visible—but not whether the image shows a severe developmental defect. In fact, you are not even allowed to sue your doctor for withholding this information.

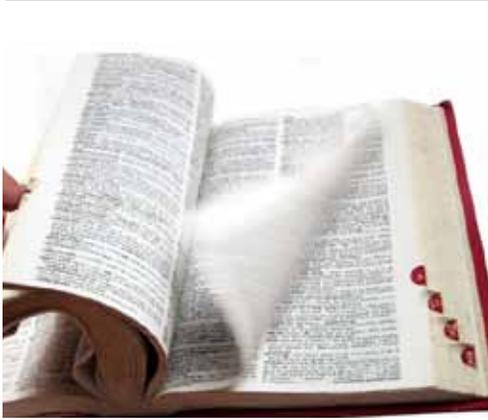
This is what would happen to thousands of women if a new Oklahoma law—which goes further than any other law in the country requiring an ultrasound before an abortion—goes into effect. In October 2008, the Center filed a challenge against the law on behalf of one Oklahoma abortion clinic, Reproductive Services in Tulsa.

Already, the Oklahoma law has inspired copycat legislation across the country. So far this legislative session, 12 other states are considering bills that would offer or require ultrasounds before a woman can get an abortion.

“We are seeing more and more states introduce this type of politically motivated laws that are being pushed by people who believe that women can’t make the decision to have an abortion alone,” said Celine Mizrahi, legislative counsel for the U.S. Legal Program.

“These laws are not about information. They are being used as scare tactics to dissuade women from having abortions altogether and get in the way of good medical care.”

A preliminary injunction hearing in the Oklahoma case is scheduled to begin on March 30. (To learn more, see this issue’s Glossary.)



## Glossary: Preliminary Injunction

In the early stages of a lawsuit, the plaintiff can request a court order, called a preliminary injunction, to block the opposing party from taking certain actions until the court makes a final ruling in the case.

For example, in the Center's challenge to Oklahoma's ultrasound law, we are asking the court to issue a preliminary injunction that will stop the state of Oklahoma from implementing the law while the case is pending. In order for the court to issue the order, we must show that our client would suffer irreparable harm if the law goes into effect and that our lawsuit has a likelihood of success.

In October 2008, we requested and received a temporary restraining order—a short-term stopgap measure—to block the law until the judge rules on our request for a preliminary injunction.



## Reproductive Rights and HIV/AIDS

Only a few weeks after learning that she was pregnant, 20-year-old Francisca\* received difficult news—she had tested positive for HIV. She and her husband, who live in Chile, decided to continue with the pregnancy. When her due date arrived in late 2002, she checked into a local hospital for a C-section and delivered a healthy baby boy. But without Francisca's consent, doctors decided to sterilize her.

According to the World Health Organization, the proportion of women living with HIV worldwide has steadily increased over the past ten years. These women's reproductive rights are often at risk: like Cristina, they may be sterilized without their consent, or they may be denied abortions they want or forced to have abortions they don't want.

The Center's 2008 report *At Risk: Rights Violations of HIV-Positive Women in Kenyan Health Facilities*, for instance, documented how HIV-positive women in Kenya are denied care and verbally and physically abused when seeking reproductive health services.

At last year's International AIDS Conference, the Center urged governments and activists to make sure that the reproductive rights of HIV-positive women are protected. It will continue to do so at the March meeting of the United Nation's Commission on the Status of Women in New York, which will focus on the impact of HIV/AIDS on women. The Center has organized several panels during the meeting.

Francisca's case, meanwhile, is now before the Inter-American Commission on Human Rights. Filed by the Center and the Chile-based organization *Vivo Positivo* in February, it is the first time the human rights body has been asked to rule on the forced sterilization of an HIV-positive woman.

“...the proportion of women living with HIV worldwide has steadily increased over the past ten years.”

\*The name used is a pseudonym to protect the identity of the client.



Dr. Nikhil Datar

“...if the law won't allow these women to have an abortion, many of them will turn to illegal abortions.”

## Q & A: Dr. Nikhil Datar on India's Abortion Law

In India, abortion because of fetal impairment is criminalized after the 20th week of pregnancy. But many severe fetal defects cannot be detected until after that point. Last summer, Mumbai gynecologist Dr. Nikhil Datar and one of his patients—who was 24 weeks pregnant when she found out that the fetus had a serious heart defect—unsuccessfully sought permission for an abortion from the Mumbai High Court. Dr. Datar is now taking his fight for a more sensible abortion law to the Indian Supreme Court.

### Q: Why did you decide to challenge India's current abortion law?

**A:** A few years ago I had a patient, a 24-week pregnant woman, whose fetus was diagnosed with hydrocephalus and spina bifida. She wanted to have an abortion, but I could not give her one since she was past 20 weeks. She had the child, who is paralyzed, has no control of his bladder or bowel, and cannot go to school. Since this patient I have been trying to motivate other patients and doctors to go to court and change the law, and last summer one of my patients agreed to do so.

Many people in India cannot afford to raise children with special needs, and there is no healthcare infrastructure to help them. I'm not against anyone who willingly wants to take on these responsibilities, but if a couple does not want to raise a severely disabled child no one should compel them to do so. The law has to take into account particular situations. And if the law won't allow these women to have an abortion, many of them will turn to illegal abortions.

### Q: What do you think is the doctor's role in a woman's decision to end a pregnancy?

**A:** I would like to have a relationship with my patients where I can explain the facts to them and let them make the decision for themselves. But the current abortion law reflects a paternalistic attitude—the doctors have to decide whether the abnormality is “substantial” and patients have no role to play in decision making. A lot of change needs to happen in the attitudes of doctors, patients, and lawmakers.



“...as many as 35% of women eligible for Medicaid who want an abortion will not be able to get one.”

## Take Action: End Abortion Funding Restrictions

A poor woman in Texas, relying on public assistance to make ends meet for her family, decides that she can't continue an unwanted pregnancy. But a first-trimester abortion costs more than her monthly rent, and she soon finds out that Medicaid, which covers almost all other medically necessary health services, will not pay for it. So she puts off having an abortion until she has saved enough money for it, even though the longer she waits the costlier and riskier the procedure will be.

When abortion was first legalized in 1973, federal funds were available to low-income women on Medicaid who sought abortions. But four years later, Congress enacted the Hyde Amendment, which bans federal funding for abortion except under extremely limited circumstances: rape, incest, and danger to the mother's life.

The Hyde Amendment has prevented millions of low-income women from making their own decisions about whether to have a child, forcing some to continue with a pregnancy even when it jeopardizes their health. According to the Guttmacher Institute, as many as 35% of women eligible for Medicaid who want an abortion will not be able to get one.

Many other women who rely on the federal government for health coverage—including women in federal prisons, federal employees, and Native American women—have also been deprived of their right to abortion. Washington, DC is prohibited by federal law from using even its own funds to cover abortion services for poor women. And women serving in the military can't get abortions on their bases even with their own money.

A key goal of the Center's Federal Policy Agenda is expanding access to abortion for all women, and we are calling on President Obama to strike these funding restrictions from his 2010 proposed budget. You can help us: Tell President Obama that the government should not intrude on a poor woman's decision whether or not to continue a pregnancy.

### OTHER NEWS

[President Obama Moves to Rescind Bush HHS Rule](#)

[New Case against Moldova](#)

[Maternal Mortality in India: A Human Rights Crisis](#)

[Obama Rescinds Global Gag Rule](#)

[New Director for Law School Initiative](#)

[A New Era for Reproductive Rights](#)

### NEW PUBLICATIONS

[\*Maternal Mortality in India: Using International and Constitutional Law to Promote Accountability and Change\*](#)