No. 71A04-1504-CR-00166

IN THE
COURT OF APPEALS OF INDIANA

PURVI PATEL, Appellant, v. STATE OF INDIANA, Appellee	)	Appeals from the St. Joseph Superior Court Cause No. 71D08-1307-FA-000017 Hon. Elizabeth C. Hurley, Judge

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BRIEF OF *AMICI CURIAE* ASIAN-AMERICAN AND PACIFIC ISLANDER ORGANIZATIONS IN SUPPORT OF APPELLANT

October 2, 2015

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INTEREST OF *AMICI CURIAE*

Amici curiae are national, nonpartisan, non-profit organizations whose missions involve advocacy on issues of importance to the Asian American and Pacific Islander (or AAPI) community (*AAPI Amici*). *AAPI Amici* are individual experts and organizations deeply concerned that the prosecution of Purvi Patel is a bellwether for the increasing discrimination and unequal protection of the laws as against Asian Americans, more specifically, those who are pregnant and entitled to constitutional protection of their rights to make their own medical decisions. *AAPI Amici* file the *amicus curiae* brief to provide this Court with information about the historical context, as well as the social, public health and constitutional concerns raised by this prosecution. *AAPI Amici*, which include experts in law, medicine, and bioethics, and authors of sources cited in this brief, are well-positioned to provide this information.

Statements of interests of *amici* are set out in Appendix A.

SUMMARY OF ARGUMENT

Purvi Patel, a 33-year-old Indian-American woman, worked at her family's restaurant and took care of her parents and ailing grandparents. She is now also the first woman in the United States to be convicted and sent to prison for feticide for attempting to end her own pregnancy.

In July 2013, Patel went to an emergency room at St. Joseph Regional Medical Center, seeking help for vaginal bleeding. Patel did not immediately tell medical staff that she had been pregnant. Trial Tr. 317:12-14. When a doctor discovered what happened, he first called the police, and then left the hospital to join police in their search for the fetal remains.

Meanwhile, Patel remained in her hospital bed. When she awoke in the middle of the night, she was greeted by police officers who immediately began an interrogation. *See* State's Ex. 62, 0:08 (interview commences at 3:32 a.m.). They demanded to know the identity of the father and asked "Was he Indian?" and "Was he Indian and where is he?" *Id.* at 11:30.

A month later, Patel was charged with feticide and neglect of a dependent—two entirely contradictory charges. On March 30, 2015 she was convicted on both charges, and given a 41-year sentence. This Court should overturn Patel's conviction for two reasons.

First, Patel's arrest, prosecution, and conviction raise grave concerns about selective enforcement of the laws of Indiana. The *only two women* the State of Indiana has charged with feticide have been Asian women, although abortion and miscarriage are widespread occurrences throughout the state and Asian women make up only roughly one percent of Indiana's population. *See* Asian Am. Ctr. for Advancing J., *A Community of Contrasts: Asian Americans in the United States: 2011* at 60, http://napca.org/wp-content/uploads/2012/11/AAJC-Community-of-Contrast.pdf (hereinafter "A Community of Contrasts") (Asian community 2% of

Indiana's population). This selective enforcement is tragic and unconstitutional. It is also consistent with America's shameful history of passing laws based on cultural stereotypes about the Asian community, and with selective enforcement of race-neutral laws against Asian Americans. Such selective enforcement violates the Equal Protection Clause and must not be tolerated.

Second, affirming Patel's conviction will likely deter Asian women who are struggling with serious health conditions or medical emergencies to seek out the healthcare services they desperately need from a hospital, clinic or doctor's office out of fear they will be reported to law enforcement officials. This will be particularly detrimental to those suffering from mental health problems who miscarry or who suffer a still birth outside the hospital setting. In short, affirming Patel's conviction is likely to heighten the difficulties Asian American and Pacific Islander women already face in accessing healthcare.

For the reasons set out in Patel's brief, and in consideration of the issues outlined in this brief, this Court should reverse Patel's conviction.

ARGUMENT

The arrest, prosecution and conviction of Purvi Patel did not occur in a vacuum. They happened within a legal framework that, for centuries, has both explicitly and implicitly used stereotypes to vilify the Asian American and Pacific Islander (AAPI) community. Section I of this brief provides the necessary historical context to understand the role of stereotyping in this case.

The outcomes of stereotyping do not end, however, in the legal world. Misuse and unequal protection of the law have resulted in a long history of punitive outcomes disproportionately affecting the AAPI community. One of the most troubling outcomes is the destructive power of these stereotypes on access to healthcare for the AAPI community in the U.S., which Section II of this brief will address.

I. Patel's Conviction Raises Serious Concerns About Selective Enforcement, Particularly When Viewed In The Context Of America's Legacy Of Passing And Enforcing Laws Against Asians Based On Stereotypes.

Indiana enacted its feticide law in 2009 to protect pregnant women from harm by a third party. Indiana State Senator Jim Merritt, the sponsor of the bill, specifically noted that the bill was a response to a shooting of a pregnant bank teller that resulted in the death of unborn twins. *See* Press Release, Senate Democratic Caucus, Merritt's Bill to Enhance Penalties for Feticide Passes Indiana House (April 6, 2009), http://www.in.gov/portal/news_events/37749.htm. Since then, Patel is only the second woman to be prosecuted under this law. The first was also an AAPI woman: Bei Bei Shuai, a Chinese woman who lost her pregnancy when her depression drove her to attempt suicide. Rather than taking steps to ensure she received the mental health assistance she so desperately needed, in 2011, the state of Indiana charged her with attempted feticide and murder. *See Bei Bei Shuai v. State*, 966 N.E.2d 619 (Ind. Ct. App. 2012).

For context, abortion and miscarriage are wide-spread occurrences. In Indiana in 2011, over 110,800 women became pregnant. In 2011, nine percent – or 9972 – of pregnancies resulted in induced abortions and fifteen percent – or 16,620 – of pregnancies resulted in miscarriage. Nationwide, no racial or ethnic group makes up a majority of women obtaining abortions: *See* Guttmacher Institute, State Facts About Abortion: Indiana, https://www.guttmacher.org/pubs/sfaa/indiana.html. Moreover, AAPIs make up only two percent of Indiana's population. A Community of Contrasts, at 60.

The singling out of these two women to prosecute raises a serious question about whether Indiana is selectively enforcing its feticide law against AAPI women. To properly answer this question, the Court first must understand the history in this country of passing and enforcing laws based on cultural stereotypes about the AAPI community.

A. America Has A History Of Passing Laws Based On Cultural Stereotypes About The AAPI Community.

Throughout our nation's history, members of the AAPI community have battled a number of stereotypes. For example, AAPIs have been perceived as "perpetual foreigners" who are incapable of assimilation. The AAPI community has also been seen as "Yellow Peril," a cultural threat that will denigrate the white American way of life. *See, e.g.*, Claire Jean Kim, *The Racial Triangulation of Asian Americans*, 27 Pol. & Soc'y 105, 108-16 (1999) (describing history of whites perceiving Asian Americans as foreign and therefore politically ostracizing them). AAPI women have been sexualized and exoticized throughout U.S. history while at the same time perceived as docile, quiet, and subservient. *See* Sumi K. Cho, *Converging Stereotypes in Racialized Sexual Harassment: Where the Model Minority Meets Suzie Wong*, 1 J. Gender Race & Just. 177, 186, 191 (1997). Underlying all of these stereotypes is a belief that AAPIs necessarily think, act, and behave in racially-determined ways.

These stereotypes have given rise to a "long history of governmental discrimination based on race" against the AAPI community. *Ho by Ho v. San Francisco Unified Sch. Dist.*, 147 F.3d 854, 863 (9th Cir. 1998); *see also* Ernesto Hernandez-Lopez, *Global Migrations and Imagined Citizenship: Examples from Slavery, Chinese Exclusion, and When Questioning Birthright Citizenship*, 14 Tex. Wesleyan L. Rev. 255, 269 (2008) (laws that restricted the rights of Chinese immigrants "relied on cultural arguments that they were a different race and had a history, biology and culture unique and so distinct that they could not assimilate"); *Oyama v. California*, 332 U.S. 633, 651-59 (1948) (Murphy, J., concurring) (noting California Alien Land Law was the result of "racial prejudices and discriminations" against "[t]he 'Japanese menace'": "The Japanese were depicted as degenerate mongrels and the voters were urged to save 'California—the White Man's Paradise' from the 'yellow peril'"). For decades, based on racial stereotypes, AAPI individuals were excluded from entering the U.S., owning land, and gaining citizenship.

During this era, many policies based on the idea of Asians as inferior and dangerous were put into place. As early as 1913, the Alien Land Law, was passed in California as a reaction to the influx of Asian immigrants and the fear engendered by the perception of this group as perpetual outsiders who threatened American culture. *See* Keith Aoki, *No Right to Own?: The Early Twentieth-Century "Alien Land Laws" as a Prelude to Internment*, 40 B.C. L. Rev. 37 (1998). Justice Murphy's concurrence in *Oyama* captured the anti-Japanese sentiment animating these laws, noting the history of "[c]harges of espionage, unassimilativeness, clannishness and corruption of young children" against this group. *Oyama*, 332 U.S. at 653 (Murphy, J., concurring). Moreover, the first laws excluding immigrants from the U.S. were targeted specifically at restricting the entry of Asians into the country. *See, e.g.*, Chinese Exclusion Act

of 1882, ch. 126, 22 Stat. 58, 58-61 (prohibiting immigration of all Chinese laborers); Asiatic Barred Zone Act of 1917, Immigration Act of 1917, Pub. L. No. 64-301, ch. 29, 39 Stat. 874 (barring immigration of all Asian Indians into the U.S.); Immigration Act of 1924, Pub. L. No. 68-139, 43 Stat. 153 Ch 190 (excluding nearly all immigrants from Asia); Tydings-McDuffie Act of 1934, Pub. L. No. 73-121, ch. 84, 48 Stat. 456 (1934) (imposing annual quota of fifty Filipino immigrants). Congress justified each of these discriminatory laws by reference to the prejudices underlying the "perpetual foreigner" and "Yellow Peril" stereotypes. The Chinese Exclusion Act of 1882, for instance, was based on Congress's determination that:

> [T]he presence within our territory of large numbers of Chinese laborers, of *a* distinct race and religion, . . . tenaciously adhering to the customs and usages of their own country . . . and apparently incapable of assimilating with our people, might endanger good order, and be injurious to the public interests.

Fong Yue Ting v. United States, 149 U.S. 698, 717 (1893) (emphasis added).

Of note, some of these laws specifically targeted AAPI women. The Page Act of 1875, for example, was used to bar Chinese women from immigrating to the country, based on a stereotype that they were prostitutes that would sully the American way of life. Ch. 141, 18 Stat. 477. *See* Eithne Luibheid, *Entry Denied: Controlling Sexuality at the Border* 31-54 (1998). In fact, Congressman Alan Page, who the bill was named after, sponsored the bill to "end the danger or cheap Chinese labor and immoral Chinese women." George Anthony Peffer, *Forbidden Families: Emigration Experiences of Chinese Women Under the Page Law, 1875-1882*, 6 J. Am. Ethnic Hist. 28, 28 (1986).

Perhaps the most egregious and infamous example of discriminatory treatment of the AAPI community based on these stereotypes is the internment of Japanese Americans during World War II, which the Supreme Court upheld in 1944. *Korematsu v. United States*, 323 U.S. 214 (1944). As the dissent in *Korematsu* noted, justification for the internment order was sought,

not on the basis of actual data, but "upon [the] questionable racial and sociological grounds . . . [that] individuals of Japanese ancestry are . . . a large, unassimilated, tightly knit racial group, bound to an enemy nation by strong ties of race, culture, custom, and religion." *Id.* at 236-37 (Murphy, J. dissenting) (internal quotation marks omitted). Critically, although Germany and Italy were enemies during World War II, the United States did not accord similar treatment to German Americans or Italian Americans.

As Asian Indians, particularly Sikhs, began moving into the U.S. Pacific Northwest and California in the early 1900s, it became clear that the "perpetual foreigner" stereotype was not just limited to AAPIs of Japanese and Chinese descent, but to all AAPIs equally. The response to the so-called "Hindu invasion" or "Turban tide" was swift and vicious. Nativist rioters swept through Asian Indian settlements in Washington State in 1907 and protectionist and racist groups—as epitomized by the Asian Exclusion League—proliferated well into the following decade. *See* University of Washington, Seattle Civil Rights & Labor History Project, http://depts.washington.edu/civilr/bham_history.htm. The aftermath of this backlash can be seen in laws like the Asiatic Barred Zone Act of 1917, which targeted Indians for exclusion from immigration into the United States. *See generally* Erika Lee, At America's Gates: Chinese Immigration During the Exclusion Era, 1882-1943 (2003).

In 1923, the Supreme Court case of *United States v. Bhagat Singh Thind* established that Hindus (at the time, a proxy for those from the South Asian subcontinent) could not be granted citizenship through naturalization based on their Caucasian ancestry because they were not "white persons" within the meaning of the Naturalization Act. 261 U.S. 204, 214-15 (1923). The U.S. Supreme Court concluded that "Caucasian," had come to mean "white persons" in the United States, a normative category in which individuals from the South Asian subcontinent did

not belong. *Id.* As the Court's discussion amply demonstrated, this determination was made largely on the perceived *otherness* of South Asians. *Id.* at 210-211. "[T]he original framers of the law," the Court held, meant to allow immigration "from the British Isles and Northwestern Europe, whence they and their forebears had come." *Id.* at 213. "[T]hey extended the privilege of American citizenship to . . . bone of their bone and flesh of their flesh—and their kind." *Id.* Such immigrant groups were "readily amalgamated" with those already here; in contrast "children born in this country of Hindu parents would retain indefinitely the clear evidence of their ancestry." *Id.* at 213, 215.

More recently, in the wake of the September 11, 2001 attacks, South Asian men, in particular, have increasingly faced government scrutiny based on their race, national origin, and religion. Immediately after the attacks, the National Security Entry-Exit Registration System (NSEERS) was initiated to track border entries and exits, and allowed the government to systematically target Arabs, Middle Easterners, Muslims, and South Asians from designated countries for enhanced scrutiny. The most controversial piece of NSEERS required nonimmigrant males who were 16 years of age and older from 25 specific countries to register at local immigration offices for fingerprinting, photographs, and lengthy, invasive interrogations. More than 80,000 men underwent call-in registration and thousands were subjected to interrogations, detention, and deportation − yet these efforts have not resulted in a single known terrorism-related conviction. *See* Rights Working Group and Penn State Law, *The NSEERS Effect: A Decade of Racial Profiling, Fear, and Secrecy* (2012), https://pennstatelaw.psu.edu/_file/clinics/NSEERS_report.pdf; Asian American Legal Defense and Education Fund, *Special Registration: Discrimination and Xenophobia as Government Policy* (2004), http://www.aaldef.org/docs/AALDEF-Special-Registration-2004.pdf; SAALT et

al., *In Our Own Words*: *Narratives of South Asian New Yorkers Affected by Racial and Religious Profiling* (2012), http://saalt.org/wp-content/uploads/2012/09/In-Our-Own-Words-Narratives-of-South-Asian-New-Yorkers-Affected-by-Racial-and-Religious-Profiling.pdf.

Today, we see growing policing and surveillance of communities of color, in particular South Asian, Muslim, Sikh, Hindu, Middle Eastern, and Arab communities who continue to be cast as suspicious by multiple levels of government and law enforcement without cause or accountability. These communities are increasingly subject to xenophobic rhetoric from political figures and government officials, which are then highlighted by the media and filtered through society. *See* SAALT, *Under Suspicion, Under Attack* (2014), http://saalt.org/wp-content/uploads/2014/09/SAALT_report_full_links.pdf. It is this same confluence of suspicion and stereotyping that Indiana police officers exhibited when they began their interrogation of Patel in her hospital bed demanding to know the identity of the father asking "Was he Indian?" State's Exhibit 62, 11:30. Just earlier this year, Sureshbhai Patel, an Indian grandfather with extremely limited English proficiency, went on his daily neighborhood walk in Madison, Alabama, and was deemed suspicious by a neighbor who contacted law enforcement. Local police officers were dispatched with no preparation to communicate with Mr. Patel and beat him to the point of partial paralysis. *See* Richard Fausset, *Alabama Police Officer Indicted in Confrontation With Unarmed Indian Man*, N.Y. Times, Mar. 27, 2015. The use of cultural stereotyping in enforcing the law has a long history in the U.S. and has impacted South Asian communities in uniquely harmful ways. Purvi Patel is no exception to this biased enforcement of the law.

B. America Also Has A History Of Selectively Enforcing Race-Neutral Laws, In Violation Of The Equal Protection Clauses Of The U.S. And Indiana Constitutions.

In some ways more pernicious than the historic, explicitly discriminatory measures discussed above, the AAPI community has long been targeted with unconstitutional selective enforcement of laws that are ostensibly race-neutral. The well-known case of *Yick Wo v. Hopkins*, for instance, concerned a San Francisco ordinance that banned operating hand laundries in wooden buildings. 118 U.S. 356 (1886). Although the ordinance purported to apply equally to all citizens, it, in fact, targeted Chinese immigrants. *Id.* at 373-74. Sadly, such unconstitutional selective race-based enforcement is not a thing of the past. In 2013, a court found that the Maricopa County Sheriff's Office—helmed by Sheriff Joe Arpaio—had an unconstitutional policy of questioning, investigating, and detaining Latino drivers and passengers, that the office received such training from the Immigration and Customs Enforcement Office of the U.S. Department of Homeland Security. *See Melendres v. Arpaio*, 989 F. Supp. 2d 822, 825, 846 (D. Ariz. 2013), *aff'd* 784 F.3d 1254 (9th Cir. 2015). That same year, a court across the country found that New York City implemented its stop-and-frisk policy in an unconstitutional manner that targeted young black and Latino individuals. *See Floyd v. City of New York*, 959 F. Supp. 2d 540, 663 (S.D.N.Y. 2013), *appeal dismissed by* 770 F.3d 1051 (2d Cir. Oct. 31, 2014). Both courts permanently enjoined the practices in question. *See Melendres*, 989 F. Supp. 2d at 912; *Floyd v. City of New York*, 959 F. Supp. 2d 668, 673 (S.D.N.Y. 2013).

Such laws and programs – enforced in a discriminatory manner – violate the Equal Protection Clause of the United States Constitution. *See Yick Wo*, 118 U.S. at 373-74. Such laws and programs also violate the Indiana Constitution's Equal Protection Clause. *State ex rel. Miller v. McDonald*, 297 N.E.2d 826, 829 (Ind. 1973), *abrogated on other grounds by Collins v.*

Day, 644 N.E.2d 72 (Ind. 1994) (state equal protection clause coextensive with federal clause); *see also St. Joseph Cnty. v. Wilmes*, 428 N.E.2d 103, 105 (Ind. Ct. App. 1981) ("A statute which is constitutional may nevertheless be unconstitutionally applied."). As the Supreme Court of Indiana has recognized, "parties [may] challenge government action that categorizes citizens into particular groups and then treats those groups differently," if the law is "facially neutral but applied in a way that disparately impacts an identifiable class." *City of Indianapolis v. Armour*, 946 N.E.2d 553, 564 (Ind. 2011) (citing *Yick Wo*), *aff'd*, 132 S. Ct. 2073 (2012). Indeed, "wrongful discrimination between persons in similar circumstances[] is at least as vicious" in selective enforcement cases as it is in statutory law. *Western Union Tel. Co. v. Ferguson*, 60 N.E. 674, 677 (Ind. 1901).

C. That Indiana Has Enforced Its Feticide Law Against Only Two Pregnant Women For Their Pregnancy Outcomes—Both AAPI Women—Is Troubling and Constitutionally Suspect.

As other *Amici* will argue, Indiana's feticide law does not and was not intended to apply to people in relation to their own pregnancies. The fact that the only two people known to have faced such a prosecution are both AAPI women in a state where they are a small minority raises the concern that the state is engaged in selective enforcement as a result of discriminatory stereotypes. Moreover, that both of these people are pregnant women themselves—and not third parties—suggests that the State is stretching the statute beyond its intended bounds. This conduct raises further suspicions regarding selective enforcement.[1]

[1] The United States Supreme Court has recently reversed a number of criminal convictions in which prosecutors employed a statute beyond its intended reach. *See, e.g.*, *Yates v. United States*, 135 S. Ct. 1074, 1078-79 (2015) (fisherman convicted of a provision of the Sarbanes-Oxley Act of 2002 for "destruction or removal of property to prevent seizure" when he threw an "undersized red grouper" overboard "[t]o prevent authorities from confirming he had harvested undersized fish" (internal quotation marks omitted)); *Bond v. United States*, 134 S. Ct. 2077, 2083 (2014) (Chemical Weapons Convention Implementation Act did not reach "an amateur attempt by a jilted wife to injure her husband's lover"). This is consistent with

Patel's and Shuai's cases come amid a resurgence of stereotypes of AAPI women related to their reproductive health choices. Citing the tragic trend of son preference in India and China, the narrative about Indian and Chinese women among anti-abortion activists is increasingly that these are women who have a blatant disregard for life. *See* Sayantani Dasgupta, *Pregnant Women Are Now Targets: The Tragedy of Purvi Patel*, Salon (Apr. 26, 2015, 1:00 PM) http://www.salon.com/2015/04/26/a_terrifying_floodgate_for_prosecuting_women_why_purvi_patel_is_not_a_terrorist_partner/. This narrative, combined with the stereotype of AAPIs as "perpetual foreigners" and "Yellow Peril," has resulted in the perception that AAPIs in the U.S. have inherited this problematic cultural flaw. It is impossible to ignore that these stereotypes may have played a role when only Patel and Shuai, both AAPI immigrant women, were singled out for prosecution.

Indeed, racial assumptions regarding AAPI women were a part of public discourse in Indiana during Patel's sentencing hearing in February of 2015. That month, the Indiana Senate passed a ban on abortions performed for the purpose of selecting a baby's sex.[2] *See* S.B. 334, 119 General Assembly, 1st Regular Sess. (Ind. 2015) https://iga.in.gov/legislative/2015/bills/senate/334; Shivana Jorawar, *Miscarriage of Justice: Asian-American Women Targeted – and All Women Threatened – by Feticide Laws Like Indiana's*, American Prospect, Apr. 3, 2015, http://prospect.org/article/miscarriage-justice-asian-american-women-targeted-and-all-women-threatened-feticide-laws. Sex-selective abortion bans—laws banning abortions resulting from the desire to control the sex of one's children—are

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the rule that criminal statutes should be resolved in favor or lenity. *See Skilling v. United States*, 561 U.S. 358, 409-11 (2010) (honest services fraud statute covered only bribery and kickback schemes, not "undisclosed self-dealing" or conflicts of interest (quotation marks omitted)).

[2] Because the Indiana General Assembly has no recorded legislative history, *amici* rely on public statements and look to other legislatures to understand the motivation behind such bills.

now proliferating in the United States. Over twenty-one states as well as the federal government have considered such laws since 2009. *See* The Univ. of Chi. Human Rights Clinic, et al., *Replacing Myth With Facts: Sex Selective Abortion Laws in the United States* 1 (2014) (hereinafter "*Replacing Myths*"), https://napawf.org/wp-content/uploads/2014/06/Replacing-Myths-with-Facts-final.pdf. An echo of the reactionary immigration policies of the 1800s and 1900s, states where sex-selective abortion laws have been introduced or passed are also states with some of the fastest growing AAPI populations in the country, such as Arizona (92% growth between 2000 and 2010), North Dakota (92%), and North Carolina (84%). *See id.* at 29-30 (listing states with sex-selective abortion bans); Elizabeth M. Hoeffel, et al., *The Asian Population: 2010* 7 Table 2 (Mar. 2012), http://www.census.gov/prod/cen2010/briefs/c2010br-11.pdf (listing Asian population percent change between 2000 and 2010, by state). Indeed, Indiana considered its sex-selection abortion ban after a period of massive growth of AAPIs—from 2000 to 2010, the AAPI community in Indiana grew by 74 percent, which represents the largest percentage growth for the AAPI community in the Midwest. Asian Am. Ctr. for Advancing Justice, *A Community of Contrasts: Asian Americans, Native Hawaiians and Pacific Islanders in the Midwest* 7 (2012), http://napca.org/wp-content/uploads/2014/04/Community_of_Contrasts_Midwest_2012.pdf.

Despite evidence that AAPI women in the United States have *more* girls on average than white Americans, *Replacing Myths* at 16, arguments for sex-selective abortion bans have relied heavily on race-based stereotypes of AAPI women, with a specific focus on women of Chinese and Indian descent. They regularly reference what is happening in India and China, where circumstances are vastly different than in the U.S., and make racial assumptions about AAPIs in this country. For example, during a 2011 House Judiciary hearing, a witness in support of the

ban stated "Consider the situation in India, which has a *de facto* two-child policy . . . as many as half a million female fetuses are aborted there each year because of their gender" and "The most egregious example is China, where a brutally enforced one-child policy has produced a national ratio of 121 boys for every 100 girls." *Susan B. Anthony and Frederick Douglass Prenatal Nondiscrimination Act of 2011: Hearing Before the Subcomm. on the Constitution of the H. Comm. on the Judiciary*, 112th Cong. 74 (2011) (Testimony of Steven W. Mosher, President, Population Research Institute), http://judiciary.house.gov/_files/hearings/printers/112th/112-74_71599.PDF. During legislative debates in South Dakota before it enacted a ban on sex-selective abortion, an executive of South Dakota Right to Life suggested that Asian Americans in South Dakota are "from ethnic backgrounds that are *known* to practice sex selection." *Replacing Myths* at 15 (citation omitted). Likewise, upon passage of the ban in Arizona, state Senator Barto stated, "We are a multicultural society now and cultures are bringing their traditions to America that really defy the values of America, including cultures that value males over females." Associated Press, *Arizona Law Bans Abortions Based on Race or Gender*, Mar. 31, 2011, http://www.foxnews.com/politics/2011/03/31/arizona-law-bans-abortions-based-race-gender/.

Like others of its kind, the proposed Indiana ban was based on stereotypes about women originating from countries in Asia. For example, one witness testified before the Indiana Senate that "[t]here is ample evidence to show that gender selection abortion occurs in such countries as China and India" and that "this problem also occurs in the United States." *See* Written Testimony of David A. Prentice, PhD, in support of SB 334 Before the S. Comm. of Health and Provider Services (Ind. 2015), https://www.lozierinstitute.org/wp-content/uploads/2015/02/Prentice-Senatetestimony-SB334-IN-Final.pdf.

The language used by sponsors and supporters of such bills, suggesting that AAPI women as a group possess shared racial characteristics that make them a threat to American values and society, mirrors the racist and xenophobic language that drove anti-Asian measures in the late 19th and early 20th century in this country. *See Oyama*, 332 U.S. at 668-69 (Murphy, J., concurring) ("[Japanese] are said to constitute a menace, a 'yellow peril,' to the welfare of California. They are said to be encroaching on the agricultural interests of American citizens. They are said to threaten to take over all the rich farm land of California. They are said to be so efficient that Americans cannot compete with them." (describing legislative history of Alien Land Law)); *Korematsu*, 323 U.S. at 237-38 (Murphy, J., dissenting) ("Individuals of Japanese ancestry are condemned because they are said to be a 'large, unassimilated, tightly knit racial group, bound to an enemy nation by strong ties of race, culture, custom and religion.'") (internal citations omitted).

The debate surrounding Indiana's proposed sex-selective abortion ban created a narrative in the state that Chinese and Indian women have a disregard for the life of unborn children. These stereotypes may have come into play when the doctor left Patel's bedside to report her to the police and aid in the investigation, when investigators inquired repeatedly into the identity of the father, demanding, "Was he Indian?," and when the prosecutors made their charging decision.

II. This Court Should Guard Against Discrimination And Selective Prosecution Because Women Similarly Situated Will Avoid Seeking Medical Assistance, Compounding Existing Barriers To Health Care.

Affirming Patel's conviction will reduce the likelihood that pregnant AAPI women struggling with serious health conditions or medical emergencies will seek out the care and treatment they desperately need. AAPI women already face numerous hurdles to accessing culturally competent, timely, and affordable health care. The threat of unwarranted increased

scrutiny and the report of their private medical information to law enforcement will be particularly detrimental to women struggling with mental health, those who miscarry, or who suffer a still birth outside the hospital setting.

A. Women Of Color Disproportionately Experience Punitive Action Resulting From Their Pregnancy-Related Behaviors, Which Deters Them From Seeking Medical Attention.

Affirming Patel's conviction will heighten the existing fear among AAPI women of punitive actions and chill their efforts to access necessary medical care. It is well-documented that pregnant women avoid seeking medical treatment when they fear punitive actions. *See, e.g.*, Martha A. Jessup, *Extrinsic Barriers to Substance Abuse Treatment Among Pregnant Drug Dependent Women*, 33 J. Drug Issues 285 (2003); Sarah C.M. Roberts & Cheri Pies, *Complex Calculations: How Drug Use During Pregnancy Becomes a Barrier to Prenatal Care*, 15 Maternal & Child Health J. 333 (2011), http://www.medscape.com/viewarticle/739387.

Low-income women of color already have reason to fear punitive actions relating to seeking healthcare for their pregnancy-related condition. In reported cases of arrest or forced medical intervention of pregnant women (for a reason relating to their pregnancy), a shockingly high proportion resulted from reports from health care providers or social work professionals: 41% of these cases were reported to the police by health care providers, 12% were reported from social workers; and 17% were reported from the hospital to Child Protective Services and then to law enforcement. Lynn M. Paltrow & Jeanne Flavin, *Arrests of and Forced Interventions on Pregnant Women in the United States, 1973-2005: Implications for Women's Legal Status and Public Health*, 38 J. Health Pol. Pol'y & L. 299, 311, Table 1 (2013) (hereinafter "Policy and Politics"). In many cases, hospital staff voluntarily disclosed information to police and prosecutors despite principles of patient confidentiality and without a court order. *Id.* at 329.

The facts of *Ferguson v. City of Charleston*, 532 U.S. 67 (2001), demonstrate the lengths to which some medical professionals will go to assist in the investigation and prosecution of pregnant women. Concerned about an increase in the use of cocaine by patients receiving prenatal treatment, the Medical University of South Charleston (MUSC) began to order, without consent and without a warrant, that drug screens be performed on urine samples from maternity patients suspected of using cocaine. *Id.* at 70. This testing was a policy developed by MUSC representatives and the police, which used "the threat of law enforcement intervention" as "the necessary leverage to make the [p]olicy effective." *Id.* at 72 (internal quotation marks omitted) (bracket in original). MUSC obstetrics patients who were arrested after testing positive for cocaine sued, alleging that the "warrantless and nonconsensual drug tests conducted for criminal investigatory purposes were unconstitutional searches." *Id.* at 73. The Supreme Court agreed. *Id.* at 76. Although this particular practice is no longer in place, it illustrates that, in cases involving pregnant women, medical professionals may step outside of their role as healthcare providers and participate in law enforcement functions.

This case can only be understood within the context of a larger disproportionate focus on pregnant women of color. In a study of women who were arrested or received forced medical interventions relating to their pregnancies, low-income pregnant women of color experienced such interventions at a disproportionate rate as compared to white women; the majority of such cases – 59 percent – involved women of color. Policy and Politics, *supra*, at 311. The overwhelming majority of these women were economically disadvantaged; 71 percent of the cases involved socioeconomically-disadvantaged women (as measured by entitlement to indigent defense). *Id.* The study found that "[h]ospital-based health care providers and social workers appear more likely to disclose information about patients of color." *Id.* at 327.

Modern medical interventions on women of color draw on a shameful history of forced sterilizations. From the 1920s through the 1970s, 30 states had government run programs forcibly sterilizing women of color. Often, women who sought medical assistance for an abortion found themselves coerced into sterilization as the most effective way to avoid future pregnancies. During this period, 65% of sterilizations performed in North Carolina were on Black women who represented only 25% of the total population. By the 1970s, up to 25% of Native American women ages 15-44 were sterilized. A 1965 survey of Puerto Rican residents found that about one-third of all Puerto Rican mothers, ages 20-49, were sterilized. *See* Katherine Krase, *History of Forced Sterilization and Current U.S. Abuses*, Our Bodies, Our Selves, Oct. 1, 2014, http://www.ourbodiesourselves.org/health-info/forced-sterilization/. While these women of color were forcibly sterilized, Asian American women have been historically victimized, stereotyped, and criminalized in unique ways for their reproductive choices, along this same spectrum of racist practices and policies.

Moreover, immigrant women over the last decade have been targets of punitive policy measures based on the xenophobic belief that they have come to the U.S. to give birth to citizen children and take advantage of public benefits. *See* Priscilla Huang, *Anchor Babies, Over-Breeders, and the Population Bomb: The Reemergence of Nativism and Population Control in Anti-Immigration Policies*, 2 Harv. L. & Pol'y Rev. 385 (2008). Reports of the sudden and forcible detention and deportation of pregnant immigrant women have raised questions of whether pregnancy has become a red flag for removal by Immigration and Customs Enforcement (ICE) officials. One story in particular illustrates this trend. On February 7, 2006, Ms. Jiang Zhen Jiang and her family arrived at an immigration office for what she thought was a routine interview. While her husband and two sons waited for her in the lobby of the immigration

office, ICE officials escorted her into a minivan and drove her to New York's JFK Airport for immediate deportation back to China. ICE agents held Jiang for eight hours, denied her food, and refused to provide her with medical care until she begged for help in a public waiting area at the airport. Eventually, Jiang was taken to a hospital, where doctors found that she had miscarried her twin fetuses. At the time of the attempted deportation, Jiang had lived in the United States as an undocumented immigrant since 1995. Outraged by her treatment, a community of Asian-American activists and residents in the greater Pennsylvania area launched a campaign to bring national attention to Jiang's experience. Similar reports of immigrant pregnant women targeted for removal continue to surface in the media. *See id*. at 401-02.

Such disproportionately punitive responses discourage women from seeking medical care due to fear of stigmatization or law enforcement intervention. *See* Policy and Politics, *supra* at 330-31. This explains the "medical and public health consensus that punitive approaches undermine maternal, fetal, and child health by deterring women from care and communicating openly with people who might be able to help them." *Id.* at 332 (citing sources). Additionally, undocumented immigrants may delay or avoid seeking medical treatment for fear that doing so will "lead to trouble with immigration authorities." Steven Asch, Barbara Leake & Lillian Gelberg, *Does Fear of Immigration Authorities Deter Tuberculosis Patients From Seeking Care?*, 161 W. J. Med. 373 (1994). In short, punishing AAPI women for seeking medical care will likely deter pregnant women of color from seeking healthcare services, undermining rather than advancing the state's interest in public health.

B. Immigrant AAPI Women Already Face Disparities In Accessing Healthcare Due To Lack Of Insurance, Language Barriers And Immigration Restrictions.

Affirming Patel's conviction will mean that AAPI women, in particular, will likely be deterred from seeking medical care, exacerbating the already existing disparities in healthcare

access for AAPI women. An estimated 14.5% of AAPIs are uninsured, compared with 13.4% of all Americans and 9.8% of Whites. Jessica C. Smith & Carla Medalia, U.S. Census Bureau, *Health Insurance Coverage in the United States: 2013*, at 2, 10 (Sept. 2014), http://www.census.gov/content/dam/Census/library/publications/2014/demo/p60-250.pdf. Roughly 15% of AAPIs participate in Medicaid. *Id.* at 10.

AAPIs are the fastest growing group of poor people in the country, making access to affordable, quality health care difficult—if not impossible—for many AAPI women. Twelve percent of AAPI women in the U.S. live in poverty compared to 10% of white women. *See* Nat'l Asian Pacific Am. Women's Forum, *The Hyde Amendment & Asian American & Pacific Islander Women* (June 2015), https://napawf.org/wp-content/uploads/2015/07/HydeOne-Pager_FINAL.pdf. The statistics for South Asian women are even bleaker: of the 4.3 million South Asians in the U.S., 21.9% of Bangladeshi, 16.6% of Pakistani, 11.2% of Sri Lankans, and 8.0% of Indian women are living in poverty. 2006-2010 American Community Survey 5-year estimates, Table B20005. Across these South Asian groups, the percentage of women earning less than $12,500 annually was double that of South Asian men. SAALT, *Demographic Characteristics of South Asians in The United States: Emphasis on Poverty*, Gender, Language Ability, and Immigration Status (2001).

Language and cultural barriers also prevent AAPI women from accessing medical care. Seventy-one percent of AAPIs speak a language other than English at home and 32% are limited English proficient. *See* Asian & Pacific Islander American Health Forum et al., *Improving the Road to ACA Coverage: Lessons Learned on Outreach, Education, and Enrollment for Asian American, Native Hawaiian, and Pacific Islander Communities* 10 (2014), http://www.apiahf.org/sites/default/files/2014.10.14_Improving%20the%20Road%20to%20AC

A%20Coverage_National%20Report.pdf. Language barriers make every step of accessing care a challenge, from locating a healthcare facility, to booking an appointment, to communicating with health professionals, to even the basic act of acquiring knowledge. *See* Wooksoo Kim & Robert H. Keefe, *Barriers to Healthcare Among Asian Americans*, 25 Soc. Work & Pub. Health 286, 289 (2010). Lack of cultural competency among health care providers is yet another barrier for AAPI women seeking healthcare. For example, expressions of illness may be culturally-specific and may be lost or remain unnoticed even without a language barrier. *See id.*

Lack of access to medical care is particularly acute for AAPI immigrants. Rates of insurance coverage are significantly lower for non-citizens than for citizens—the proportion of the noncitizen population without health insurance is *three times* that of native-born citizens. Smith, *supra*, at 12. Undocumented immigrants are completely shut out of the Affordable Care Act insurance marketplaces and must purchase insurance, if at all, out of pocket. With the decline in funding for safety net hospitals providing emergency services, sources of care for this population of immigrants is dwindling fast. There are approximately 11.4 million undocumented individuals of Asian origin living in the United States. Bryan Baker & Nancy Rytina, U.S. Dep't of Homeland Security, *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2012* 4 (Mar. 2013), http://www.dhs.gov/sites/default/files/publications/ois_ill_pe_2012_2.pdf. More than 5.3 million are immigrant women. Nat'l Asian Pacific Am. Women's Forum, *Ensuring Health Access and Equity for Immigrant Asian American and Pacific Islander Women* 1 (Mar. 2015), https://napawf.org/wp-content/uploads/2009/10/AAPIWomenHealthAccessEquity_IssueBrief2015.pdf.

Even legally-present immigrants face unique barriers to healthcare. Almost all legally-present immigrants are ineligible to receive Medicaid or coverage through Children's Health Insurance Program during the first five years of their lawful residency. *See* Kinsey Hasstedt, *Toward Equity and Access: Removing Legal Barriers to Health Insurance Coverage for Immigrants*, 16 Guttmacher Pol'y Rev. No. 1, Winter 2013 (hereinafter "Toward Equity"), https://www.guttmacher.org/pubs/gpr/16/1/gpr160102.html.

This five-year ban has a significant impact on women, who generate less income than men and require health services that men do not. *See Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751, 2788 (2014) (Ginsburg, J., dissenting) (noting that "[w]omen pa[y] significantly more than men for preventive care" and "cost barriers operate[] to block many women from obtaining needed care at all"). Asian American women working full time, year round make 79 cents for every dollar paid to white, non-Hispanic men, and 74 cents for every dollar paid to Asian American men. *See* Nat'l Women's Law Ctr., *Closing the Wage Gap is Crucial for Women of Color and Their Families* 3 n.2 (Apr. 2015), http://www.nwlc.org/sites/default/files/pdfs/closing_the_wage_gap_is_crucial_for_woc_and_their_families_2015.pdf. States may choose to waive the five-year ban for immigrant pregnant women and immigrant children, but not all do. Toward Equity, *supra*. As of January 2013, only 20 states have opted to provide this gap coverage. *Id.* Indiana is not among them. *Id.* The ban's impact on AAPI women is even further compounded by the economic insecurity resulting from language barriers, the complexity of their immigration status, the responsibility of caring for extended family members, concentration in low-paying jobs, and ineligibility for many public benefits programs. *See* Sophia Kerby, Ctr. for Am. Progress, *How Pay Inequality Hurts Women*

of Color 5 (Apr. 9, 2013), https://cdn.americanprogress.org/wp-content/uploads/2013/04/KerbyPayEquity-1.pdf.

Beyond the simple mechanics of access, immigrant AAPIs are also more likely to distrust their health providers due to insecurity around their immigration status that of their family members. A 2012 study conducted by the U.S. Department of Health and Human Services found that a fear of mistreatment and deportation deters even legally-present immigrants from seeking services that potentially bring them into contact with law enforcement. *See* Krista M. Pereira, et al., U.S. Dep't of Health & Human Services, Office of the Assistant Secretary for Planning and Evaluation, *Barriers to Immigrants Access to Health and Human Services Programs* (May 2012), http://aspe.hhs.gov/hsp/11/ImmigrantAccess/Barriers/rb.shtml#climates. Even in mixed-status families, where some individuals may have status and some may not, non-citizen parents will forgo public benefits for their U.S. citizen children, rather than risk exposure to immigration enforcement authorities. *Id.* Understandably, this anxiety and reluctance to seek assistance and care has exacerbated health disparities for immigrant communities. *See, e.g.*, Karen Hacker et al., *The Impact of Immigration and Customs Enforcement on Immigrant Health: Perceptions of Immigrants in Everett, Massachusetts, USA*, 73 Soc. Sci. & Med. 586 (2011), http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3159749/ (describing how this climate of fear in immigrant communities exacerbates chronic diseases, causes stress and depression, and decreases participation in community and public health initiatives).

Allowing Patel's conviction to stand will confirm the fear that many immigrants already have around the intersection of health and law enforcement. Giving legitimacy to Patel's deplorable treatment by her health care providers and Indiana law enforcement will only serve to

make it even less likely that immigrant AAPIs will seek out care and treatment when they need it most.

CONCLUSION

Patel's arrest, prosecution, and conviction is troubling and constitutionally suspect, given that stereotypes may have led to discriminatory enforcement against AAPI women. Moreover, affirming will likely reduce the likelihood that pregnant AAPI women who are struggling with serious health conditions or medical emergencies will seek out the healthcare services they desperately need from a hospital, clinic or doctor's office out of fear that they will be reported to law enforcement officials.

For the reasons stated herein, this Court should reverse Patel's conviction.

Respectfully submitted,

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APPENDIX A

Organizations

South Asian Americans Leading Together (SAALT) is a national, nonpartisan, non-profit organization that elevates the voices and perspectives of South Asian individuals and organizations to build a more just and inclusive society in the United States. SAALT is the only national, staffed South Asian organization that advocates for South Asian communities through a social justice framework. SAALT has been a national voice in addressing racial profiling in the South Asian American community, which has faced heightened racial profiling by law enforcement and other state sanctioned individuals and institutions since September 11, 2001. We and our colleagues who join this brief believe that racial stereotyping unjustly targets, degrades, and dehumanizes individuals and results in growing mistrust between the communities we represent and the law enforcement agents sworn to protect them.

Adhikaar is a New York-based human rights and social justice organization working with the emerging Nepali-speaking immigrant community. We organize our community on issues of workers' rights, access to healthcare, and immigrant rights. Along with our colleagues who join this brief, we believe that racial stereotyping unjustly targets, degrades, and dehumanizes individuals and results in growing mistrust between the communities we represent and the law enforcement agents sworn to protect them.

Apna Ghar has been providing holistic services and conducting advocacy across immigrant communities to end gender violence for the past 25 years. In serving immigrant women and children in Chicago, we have witnessed the fears and struggles that our community members

face in accessing health care and navigating legal issues, even those designed to promote their safety. However, in this case we are alarmed at the adverse impact of laws, specifically the application of the feticide laws in Indiana that have already adversely impacted two AAPI women. Therefore it is an issue of concern to us as a community focused organization working to addressing gender violence.

Asian Americans Advancing Justice (AAJC) is a nonprofit, nonpartisan organization that seeks to promote a fair and equitable society for all by working for civil and human rights and empowering Asian Americans, Native Hawaiian, and Pacific Islander communities. The AAJC has a longstanding history of serving the interests of AANHPIs, and is very concerned with issues of discrimination that might face them. Any hint of an action that raises the specter of possible selective enforcement of the law against AANHPIs is of grave concern to the AAJC and its ongoing efforts to promote greater civil rights, protections, justice, and equality.

Asian Pacific American Labor Alliance (APALA) is the first and only national organization of Asian American and Pacific Islander (AAPI) union members and allies to advance worker, immigrant, and civil rights. Through organizing, advocacy and education, APALA is committed to fighting against racial discrimination and criminalization of all, including those in the AAPI community.

Asian Pacific Islander American Health Forum (APIAHF) is a national health policy organization committed to ensuring that Asian Americans, Native Hawaiians, and Pacific Islanders in the United States have adequate and cost-effective health care. APIAHF's national

policy work focuses on expanding access to health care, improving the quality of health care through cultural competency and language access, increasing research, and improving the collection, reporting, and analysis of data about Asian American, Native Hawaiian, and Pacific Islander communities. The question presented in this case is of particular importance to APIAHF because APIAHF is dedicated to protecting the civil rights of all communities.

Daya supports South Asian women, their children and families who are trying to break the cycle of domestic and sexual violence and reclaim their lives. We do not support racial discrimination or stereotyping under any circumstances. Prosecuting women like Purvi Patel has a negative impact on all women, and especially survivors of violence, like the ones we have been serving for the last 20 years.

Desis Rising Up and Moving. As an organization working with low-income, and often undocumented, South Asian immigrants, we know that healthcare is rarely accessible. Such racial stereotypes, gender discrimination, and predatory prosecution is dangerous enough in itself, but also will to further marginalization of already stigmatized and under-resourced communities.

Maitri is a free, 501-C(3) non-profit, organization helping South Asian women in situations of domestic abuse, cultural displacement, or unresolved conflict. We believe that gender equity can only be achieved in a just society that respects its community members equally irrespective of their race, gender, faith and other traits. We condemn any stereotyping of communities based on generalizations and misinformation.

The National Asian Pacific American Families Against Substance Abuse (NAPAFASA) is a national organization dedicated to reducing substance use disorders and other behavioral addictions among Asian American, Native Hawaiian, and Pacific Islander communities. NAPAFASA advocates for public policy that will support and empower AANHPI women, including those struggling with addiction issues – oftentimes along with trauma, domestic violence, immigration status, linguistic isolation, and mental health issues. All women have a right to accessing healthcare, without any fear of the potential involvement of law enforcement or of being incarcerated.

National Asian Pacific American Women's Forum (NAPAWF) is the only national, multi-issue Asian American and Pacific Islander (AAPI) women's organization in the country. NAPAWF's mission is to build a movement to advance social justice and human rights for AAPI women and girls. For centuries, laws passed and enforced on the basis of stereotypes about AAPI women have undermined the ability of our community and our families to thrive. We stand with Purvi in her fight for justice.

The National Coalition for Asian Pacific American Community Development (National CAPACD) is a coalition of nearly 100 organizations from across the country with a mission to improve the quality of life for low-income Asian Americans, Native Hawaiians, and Pacific Islanders (AAPIs) by promoting economic vitality, civic and political participation, and racial equity. With our values strongly rooted in economic, racial, and social justice, National

CAPACD is committed to addressing structural barriers that result in social inequities in our communities, including possible selective enforcements of laws against AAPIs.

The National Council of Asian Pacific Americans (NCAPA) supports the appellant in the case of Purvi Patel v. State of Indiana because we strongly stand for ending racial profiling and ensuring that Asian American, Native Hawaiian and Pacific Islander women have access to quality health care and reproductive health services.

National Korean American Service & Education Consortium (NAKASEC) was founded at a time of heightened anti-immigrant sentiment to advance and protect the civil rights and due process of Korean Americans and all Americans. In the case of Purvi Patel, we see an immigrant woman being scapegoated due to her background. NAKASEC supports the civil rights and due process of Ms Patel who deserves justice, and freedom: nothing less.

National Queer Asian Pacific Islander Alliance (NQAPIA) is a federation of LGBTQ Asian American, South Asian, Southeast Asian and Pacific Islander organizations that seeks to build the capacity of local LGBT AAPI organizations, invigorate grassroots organizing, develop leadership, and challenge homophobia, racism, and anti-immigrant bias. As an LGBTQ AAPI organization, NQAPIA understands that the criminalization of Purvi Patel is raced and gendered, and is tied to the criminalization of brown bodies, queer bodies, women's bodies, and gender non conforming bodies. Prosecuting a South Asian woman for having an abortion sets up a dangerous precedent for AAPI people everywhere. NQAPIA stands with Purvi Patel, her right to choose, and against the criminalization of all AAPI & South Asian women.

OCA – Asian Pacific American Advocates is a national membership-driven organization of community advocates dedicated to advancing the social, political, and economic well-being of Asian Pacific Americans (APAs). OCA represents over 100 chapters and affiliates throughout the continental United States, and monitors and advocates against discriminatory laws and regulations targeting APAs. Enforcement of laws aimed at the APA community is of particular concern to OCA and ensuring fair application of laws continues to be a key priority.

Sakhi for South Asian Women, as the only organization in New York City serving South Asian women specifically, is committed to ensuring gender justice and reproductive rights. Race and gender arecentral to our work with community members to uplift women's voices and end violence and discrimination against South Asian women. We support Purvi, unequivocally.

The Sikh American Legal Defense and Education Fund (SALDEF) is the oldest national Sikh American civil rights and educational organization. SALDEF is dedicated to empowering Sikh Americans by building dialogue, deepening understanding, promoting civic and political participation, and upholding social justice and religious freedom for all Americans. In this connection, SALDEF is very concerned about cases which raise the specter of discrimination against minority communities and selective enforcement of the law against Asian Pacific Islander Americans.

South Asian American Policy and Research Institute (SAAPRI) is a non-profit, non-partisan organization established in 2001 to improve the lives of South Asian Americans in the Chicago

area, by using research to formulate equitable and socially responsible public policy. We and our colleagues believe that it is important to examine barriers facing women of color, including disproportionate health care access and unfounded targeting by feticide laws.

The South Asian Bar Association of North America (SABA North America) provides a vital link between South Asian lawyers and South Asian communities throughout North America. For this reason, one of SABA North America's goals is to support and guide the South Asian diaspora through matters of public importance, the law and legal issues, and to ensure that all members of the community have access to justice and due process. SABA joins in opposing the prosecution of Purvi Patel in Indiana in light of the glaring evidence of selective prosecution and the discriminatory impact of the underlying law. SABA believes that cases which have the effect of targeting specific ethnic, race or religious groups have no place in our society and more importantly, are contrary to the fundamental rights of all individuals in the United States.

CERTIFICATE OF COMPLIANCE

Counsel of Record hereby certifies that pursuant to Indiana Rule of Appellate Procedure 44, Brief of *Amici Curiae* South Asian Americans Leading Together complies with the typeface and length requirements and contains no more than 7,000 words.

Dated: October 2, 2015

Respectfully submitted,

s/*Grace B. Atwater*

CERTIFICATE OF SERVICE

I, Grace B. Atwater, an attorney, hereby certify that I caused copies of the foregoing Brief of *Amici Curiae* South Asian Americans Leading Together to be served on the following individuals on October 2, 2015 via the U.S. Postal Service, first class mail postage prepaid:

s/*Grace B. Atwater*