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Guam Abortion Law Tyrannizes Women

To the Editor:

Representative Ben Blaz of Guam protests (letter, Oct. 19) that residents of Guam do not have "the same constitutional rights enjoyed by our brothers and sisters in the states." In a second letter, Gov. Joseph Ada of Guam argues for "self-government and self-determination" through "the freedom to establish internal constitutional mechanisms." Mr. Blaz states that "the people of Guam -- Americans all -- remain second-class citizens" and "they are denied the fundamental rights afforded their counterparts elsewhere."

Yet both writers tell only half the story, because the government of Guam itself denies its citizens fundamental rights when it is convenient for the Governor's anti-choice agenda. Not only did the government of Guam ban abortion, but the Governor of Guam also concocted an elaborate theory of territorial rights to deny residents constitutional protections.

Last year, the Guam legislature unanimously passed the first law criminalizing all abortions since *Roe v. Wade*. On behalf of women on Guam and certain other plaintiffs, we filed a class action challenging the Guam anti-abortion law. In defending the law, the government of Guam -- specifically Governor Ada -- maintains that even though Congress has specifically extended constitutional provisions to Guam, Congress does not mean what it says.

In 1968, Congress amended the Organic Act of Guam to provide that the Bill of Rights, including the 13th Amendment, which prohibits slavery, and the due process and equal protection clauses of the 14th Amendment shall have the same force and effect on Guam as in the United States or in any state of the United States.

Faced with this Federal law, Governor Ada has argued in the United States Court of Appeals for the Ninth Circuit that only those rights specifically mentioned in the legislative history of the 1968 amendment apply on Guam -- and, consequently, that any right like the right to choose abortion, which was recognized after 1968, does not apply at all.

At trial the Governor's lawyer stated that a poll tax would be constitutional on Guam under the Governor's theory of the 1968 amendment, a theory described by Federal District Judge Alex Munson as "having no precedent in American jurisprudential history." Governor Ada has also argued that separation of church and state has no place on Guam since Roman Catholicism is a "custom" that justifies the ban on abortion.

Thus, Governor Ada strains to take a narrow view of the constitutional rights of the residents of

Guam even when Congress has made a clear move to guarantee those rights. Governor Ada cannot hope to challenge Federal rule over Guam while at the same time trying to impose a tyranny of his own over the women of Guam. ANITA P. ARRIOLA, SIMON HELLER New York, Oct. 22, 1991 The writers are, respectively, staff counsel for the American Civil Liberties Union's Reproductive Freedom Project and a Guam lawyer.

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