“Reproductive Injustice: Racial and Gender Discrimination in U.S. Healthcare” (2014), by the Center for Reproductive Rights, the National Latina Institute for Reproductive Health, and SisterSong Women of Color Reproductive Justice Collective

In 2014, the Center for Reproductive Rights, SisterSong Women of Color Reproductive Justice Collective, and the National Latina Institute for Reproductive Health released a co-authored report titled “Reproductive Injustice: Racial and Gender Discrimination in U.S. Healthcare,” hereafter “Reproductive Injustice.” In “Reproductive Injustice,” the organizations evaluate trends in the US federal system concerning racial and gender discrimination in sexual and reproductive healthcare. The organizations presented “Reproductive Injustice” to the United Nations, or UN, to review US compliance with the International Convention on the Elimination of All Forms of Racial Discrimination, a UN treaty that obligates participating nations to commit to eliminating racial discrimination. The authors of “Reproductive Injustice” argue that the US had not met its treaty obligations as evidenced by racial disparities in maternal mortality rates and legal barriers to healthcare coverage and access for non-citizen women.

The organizations that authored “Reproductive Injustice” included the Center for Reproductive Rights, SisterSong Women of Color Reproductive Justice Collective, and the National Latina Institute for Reproductive Health. The Center for Reproductive Rights is a legal advocacy organization that began in 1992. According to the organization’s mission statement, they seek to advance reproductive rights as fundamental human rights. The National Latina Institute for Reproductive Health, founded in 1994, is dedicated to preserving the right to reproductive health, dignity, and justice specifically for the Latina community according to their mission statement. SisterSong formed in 1997 as a collective of sixteen different organizations of Native American, Latina, African American, and Asian American women, and was one of the first reproductive justice organizations in the US. They describe themselves as a multi-ethnic reproductive justice collective and share that their membership includes women and LGBTQ+ people of color, as well as white, male, and self-described pro-choice allies who share a commitment to reproductive justice. Their mission is to grow the reproductive justice movement and support fellow organizations that are committed to advancing the goals of reproductive justice.

SisterSong defines reproductive justice as a human right that enables the right of all people to maintain personal bodily autonomy, to have children, to not have children, and to raise the children they have in safe, healthy, and sustainable communities. The term reproductive justice was coined in 1994 by a group of Black feminists attending a pro-choice conference who asserted that the mainstream reproductive rights movement at the time did not adequately address the needs of women of color and other marginalized groups. According to SisterSong, that group later organized and called themselves Women of African Descent for Reproductive Justice. The movement linked reproductive rights activism to social justice activism and recognized that protecting reproductive freedom is not just about protecting reproductive rights in the law but must be about protecting and expanding access to all the resources women need in order to maintain bodily autonomy. That includes demanding access not only to reproductive healthcare, but also to healthcare in general and to essential resources like a living wage, affordable housing, and food.

The Center for Reproductive Rights, SisterSong Women of Color Reproductive Justice Collective,

and the National Latina Institute for Reproductive Health wrote "Reproductive Injustice" for the purpose of presenting it to the United Nations Committee on the Elimination of Racial Discrimination, hereafter called the Committee, which is a body of independent human rights experts who oversee nations' compliance with the International Convention on the Elimination of All Forms of Racial Discrimination, or ICERD. The ICERD is one of nine core international human rights treaties facilitated through the United Nations that outlines universal human rights that countries must work to protect and preserve. Countries that sign the ICERD are obligated to work toward eliminating racial discrimination in all forms in order to promote and protect the equality and dignity of all people. The US signed the ICERD in 1993, and since then, the government is required to report the nation's progress to the Committee every few years. The Committee reviews what measures the US has taken to eliminate racial discrimination, evaluates whether those measures have been sufficient, and recommends future actions for the US to more effectively address racial discrimination.

The Committee reviewed the US in 2008 and found that the US was not sufficiently addressing racial disparities in sexual and reproductive healthcare at the time. In their 2008 Concluding Observations, the Committee recommended several ways the US could address discrimination, including improving access to maternal healthcare, family planning, contraception, and sex education, in addition to expanding access to Medicaid. At the time of the publication of "Reproductive Injustice" in 2014, the Committee was preparing to review the US again. The Obama Administration had submitted a report detailing the country's progress toward eliminating racial discrimination to the Committee in 2013. Non-governmental organizations, such as those that authored "Reproductive Injustice," are permitted to submit separate reports to UN Committees that monitor human rights treaties in order to highlight issues the government does not address or to indicate what they may perceive as misrepresented information. The authors of "Reproductive Injustice" asserted that the US had not implemented the Committee's recommendations from 2008 and remained behind on eliminating racial discrimination. They professed the Obama Administration's report did not sufficiently address eliminating discrimination in reproductive and sexual healthcare, and they wrote and submitted "Reproductive Injustice" to, in their words, fill in the gaps of the government's report.

The authors divide "Reproductive Injustice" into five sections, which comprise of three sections that set up the context of the report and the goals of its publication, and two that detail the organizations' findings on discrimination against women in reproductive healthcare. "Reproductive Injustice" begins with an executive summary that outlines the contents of the report. In the next section, "Reviewing the U.S. Record on Racial Discrimination," the authors discuss the intentions of their report, which were primarily to explain the errors the authors identified in the US government's official report to the UN. The authors then discuss how the Committee and other human rights bodies have defined the rights to equality and non-discrimination and encouraged countries to act to eliminate discrimination in the section, "Women's Rights to Equality and Non-Discrimination Under ICERD."

Following the first three sections, the authors divide the main body of the report into two sections, which they title "Racial Disparities in Maternal Mortality" and "Discrimination Against Non-Citizen Women in Access to Healthcare." In both sections, the authors identify inconsistencies in healthcare, and present first-hand accounts of women facing discrimination, discuss their perception of inadequacy by the US government in response to discrimination, and recommend steps the US can take in the future to eliminate racial discrimination.

In "Reviewing the US Record on Racial Discrimination," the authors explain that they created their report in response to the Committee's 2008 evaluation of the progress toward eliminating racial discrimination in sexual and reproductive healthcare in the US. The authors state that their report is meant to assist the Committee in their review of the US and to recommend speaking points for the Committee to discuss with the US government during their formal review. They provide specific questions about reproductive and sexual healthcare of the US that the Committee could ask during the review. Additionally, the authors recommend actions that the Committee can direct the US government to take after the review.

In "Women's Rights to Equality and Non-Discrimination Under ICERD," the authors discuss how the Committee and other human rights bodies have previously defined the rights to equality and nondiscrimination to demonstrate that they believed the US had not met its obligation to eliminate

discrimination based on those established definitions. The authors explain that the definition of equality under ICERD includes both formal equality, or equality in the law, and substantive equality, or equality in practice. The authors argue that the US has a record of discriminatory laws, policies, and practices that lead to racial disparities in reproductive and sexual healthcare. They also claim the US had failed to take proactive steps to ensure equal access to healthcare. The authors then explain that the Committee and other human rights bodies have advised governments to eliminate discrimination by addressing the power structures that perpetuate discrimination, such as gender stereotypes, social norms for women, laws and policies that target particular groups, and social conditions such as poverty. The authors argue that the Committee must advise the US government to address all those factors that perpetuate discrimination and to take proactive steps to ensure that women of color and immigrant women have equal access to reproductive healthcare.

In "Racial Disparities in Maternal Mortality," the authors identify causes of the high maternal mortality rate in the US and of the higher rates of maternal mortality in Black communities compared to White communities. They noted that the maternal mortality rate in the US had increased since 1990 and Black women were four times more likely than White women to die during delivery. Some researchers contend that the discrepancy in maternal mortality statistics connects with socioeconomic disparities, as women living in poverty are more likely to face a lack of access to healthcare and poor quality or inadequate healthcare. Others state that it is blatantly due to systemic racism, especially that which pervades healthcare. In the US, the authors state, the poverty rate for Black and Latina women is three times the poverty rate for White women, and more than half of women living in poverty are women of color. The authors further explain that those statistics describe why women of color are more likely to face those disparities.

The authors include first-hand accounts from Black women living in Jackson, Mississippi, and Atlanta, Georgia, to understand the role of racial and gender discrimination in their sexual and reproductive lives and highlight key factors that contribute to racial disparities in reproductive healthcare. The women the authors interviewed discussed their lack of access to information about sexual and reproductive health, their experiences of discrimination in the healthcare system, and the inadequacies of the very few poor-quality sexual and reproductive healthcare services. One woman described that at her school in Jacksonville, school policy prevents the school clinic from giving out condoms or even talking about birth control to students. She also described that when her daughter tried to access family planning services, the staff at the clinic told her to just go home and pray.

Other women whom the authors interviewed described similar experiences and a lack of access to contraceptive services, inadequate prenatal care, and a lack of adequate postnatal care and support for parents in their communities. One woman shared her experience of delivering her fifth infant, who was born with minor birth defects. She stated that the staff at the hospital immediately assumed she had used drugs while pregnant and refused to give her the infant until they had done extensive and unnecessary testing and interviews with her family members. Several women described feeling neglected by healthcare providers during pregnancy and labor, in addition to facing additional stress after delivery because of their financial situation or because they were forced to return to work too soon. Those experiences capture some of the factors such as socioeconomic status, discrimination in the healthcare system, and lack of access to information and healthcare services that can lead to higher rates of maternal mortality among Black women in the US.

The authors then discuss the inadequacy of efforts made by the US government to respond to the racial disparities in maternal mortality rates and reproductive healthcare. In the original report the US government gave to the Committee in 2013, the government acknowledged that they could have done more to address maternal mortality, but did not provide any data about disparities in healthcare or offer any suggestions or plan of action. The authors of "Reproductive Injustice," reference that data collection on maternal mortality and other women's health issues by the US government is sparse. The authors also point out deficiencies in additional government data on the barriers to healthcare access, including lack of insurance, discrepancies in income level, and a shortage of services or information across the country. The authors elaborate that the US had not adequately addressed how to increase access to insurance. Even though the 2010 Affordable Care Act originally was supposed to extend insurance coverage, the US Supreme Court struck down the part of the law that required states to expand Medicaid to accommodate more people, which

resulted in few low-income people gaining insurance coverage. They also claim that the US lacks an effective way to enforce its obligations under ICERD to eliminate discrimination, meaning there is no way to hold the government accountable.

Then, the authors summarize the previous recommendations made by the Committee to the US in their 2008 review. The Committee requested that the US collect more data on health disparities and recommended that the US address both racial discrimination in the healthcare system and obstacles such as unequal insurance coverage and access to information and services that produce racial disparities. Specific actions the Committee recommended in 2008 included expanding Medicaid to cover maternal healthcare, including both prenatal and postnatal care, for more people, which would improve access to contraception, family planning services, and comprehensive sexual education. The authors recommend that the UN committee ask the US government to describe what specific measures they had taken and plan to take to address disparities in maternal mortality during their review.

Next, the authors provide recommendations for the UN committee based on the findings communicated in "Reproductive Injustice." They suggest that the UN should enforce the US government to take proactive measures to eliminate racial and gender discrimination in law, policy, and practice, and to improve the monitoring of maternal mortality. They propose suggestions such as passing parental leave legislation, increasing insurance coverage for low-income women, addressing racial and gender stereotypes in the healthcare system, and increasing access to maternal health, contraceptives, family planning resources, and comprehensive sex education services. In order to improve monitoring and government accountability, the authors advocate a method for standardizing how researchers collect maternal mortality data across all states, with greater focus made toward gender, race, ethnicity, and age disparities in reproductive healthcare.

In "Discrimination Against Non-Citizen Women in Access to Healthcare," the authors identify barriers to full healthcare coverage and access for immigrant and non-citizen women. They note that non-citizens in the US are three times more likely not to have health insurance compared to citizens, and immigrant women are seventy percent more likely to lack health insurance than women born in the US. One factor that influences those disparities is that non-citizens are more likely to work jobs that do not offer health insurance and that pay a low wage. Many government policies at the federal and state levels also make it difficult or bar immigrants and non-citizens from receiving public insurance coverage such as Medicaid. At the time of the report's publication in 2014, documented non-citizen immigrants were required to have lived in the US for five years before they became eligible for Medicaid, and undocumented immigrants were completely ineligible for Medicaid and were unable to purchase private health insurance from insurance exchanges established by the Affordable Care Act. Additionally, because forty-six percent of the immigrant population is Latino, Latinos are disproportionately impacted by policies restricting access to health insurance. The authors note that many low-income immigrant women, particularly Latina women, relied on federally funded reproductive healthcare services, for which the government continued to restrict funding.

The authors draw evidence from a previous report released by the Center for Reproductive Rights and the National Latina Institute for Reproductive Health about the impact of systemic barriers to healthcare coverage for Latinas and immigrant women living in the lower Rio Grande Valley in Texas. In 2011, the Texas government significantly cut funding for family planning and reproductive healthcare services, which resulted in shutdowns for providers across the state. When unintended pregnancies and illnesses rose in the state within the following two years, the Texas state government reinstated funding for family planning services, but the state did not distribute that funding equitably, and the most vulnerable communities remained unassisted. The authors' previous report showed that Texas's actions worsened the effects of systemic barriers to healthcare access like poverty, lack of insurance, and minimal availability of healthcare providers. As a result, the most affected populations can face serious health effects consequently.

The authors then discuss the US government's insufficient attempts at addressing many of the problems indicated as areas of concern by the UN in 2008. The report the US provided to the Committee in 2008 did not address the disparate treatment of non-citizens and their disproportionate lack of access to healthcare coverage. The authors point out that federal funding for family planning and

preventive healthcare fell from 2008 to 2013 as the number of Latina women who needed federally funded contraception grew between 2000 and 2010. The authors cite article 5 of the ICERD which establishes an equal right to public health and medical care regardless of race, ethnicity, or citizenship status. The Committee had previously interpreted that provision to mean that treating people differently based on their citizenship status is discrimination and called on the US to stop excluding low-income immigrants from public insurance coverage in its 2008 report. The authors recommend that the Committee ask the US government to explain their justification for excluding immigrants from public health insurance coverage.

The Committee conducted its review of the US government's record of addressing racial and gender disparities in healthcare between 13 August 2014 and 14 August 2014. The Committee concluded that the US had failed to make sufficient progress towards eliminating discrimination in both policy and practice and echoed the conclusions of "Reproductive Injustice" when addressing its failures to accommodate international human rights commitments. The Committee recommended changes to US healthcare policy to expand healthcare coverage to immigrants. Additionally, to address the discrepancies in maternal mortality rates, the Committee advised the US to standardize the data collection system for maternal mortality rates across all states to identify the causes of disparities and improve accountability mechanisms for preventable maternal mortality.

A spokesperson for the Center for Reproductive Rights, Katrina Anderson, said that the United Nations Committee rightfully recognized that the wide racial and gender disparities in sexual and reproductive health are human rights violations by the US government, and that the time had come for the US to address the systemic and institutional barriers to healthcare access impacting women of color.

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