

**Submission - General Recommendation on the Rights of Indigenous Women and Girls
Committee on the Elimination of Discrimination Against Women**

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Submitted By:

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Breath of My Heart Birthplace
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Introduction

We are organizations based in the U.S. Southwest, in the States of Colorado, New Mexico, and Arizona. Changing Woman Initiative is a Native American Centered Women's Health Collective. Breath of My Heart Birthplace is a free-standing birth center rooted in the Tewa Community. Parteras de Maiz is a midwifery and traditional healing center. Elephant Circle is a birth justice organization. Together we are from this land, we are guided by Indigenous leaders, and we seek to support the communities in this region and clear the way to sovereign Indigenous birth.

More than twenty-percent of Native Americans in the United States, now live in the Southwest. Though, official data do not adequately capture the ways people in this diverse community define themselves and are often inaccurate. This area includes over 40 Pueblos and Tribes whose unceded territories overlap with boundaries set by the United States Government. In addition, many Indigenous people who live in the area are from Indigenous groups originating elsewhere, not all of them are recognized by the Federal government.

As a result of colonization Indigenous practices at birth were replaced by dominant colonial medical models and rituals that undermined the health and wellbeing of Indigenous people. In this context it is not surprising that Native women have a maternal mortality rate that is 4.5 times higher than that of non-Hispanic White women, but also the highest rates of mistreatment by healthcare providers (verbal abuse, stigma, discrimination, delays, refusals). The pandemic exposed a stark example of this mistreatment when Indigenous women who gave birth at an Albuquerque hospital were racially profiled and separated from their infants based on a hospital policy that singled out tribally located families for this intervention. This is one example of the kind of trauma our communities experience within this system. Birth is a particularly important life transition to focus on because of its inherent and profound multigenerational impact.

It is not enough to prevent obstetric violence in a system that is already designed to not support indigenous people. True self-determination in reproduction and childbirth would mean support for services, practices, traditions, rituals, and care providers determined by Indigenous families themselves. Our community is a long way from achieving what is required by our right to health.

Profile

Dawn, a citizen of the Navajo Nation, is pregnant with her first child. She resides in the Albuquerque area with her partner, who is from the Isleta Pueblo, located just south of Albuquerque. Currently, Dawn is uninsured and has always relied on Indian Health Services (IHS) for her healthcare needs. Dawn would like to have her baby in accordance with Navajo

traditions on her family's land in the Four Corners area, which is over 200 miles from where she resides in Albuquerque.

Dawn last received health care through the Albuquerque Indian Health Center, an IHS healthcare facility. When she resided in her family home on the Navajo Nation, she received healthcare through another IHS facility, the Northern Navajo Medical Center.

Dawn has no idea if IHS has traditional midwives or Navajo obstetricians, whether she could have a Navajo doula paid for, or whether she could have a home birth on her family's land. Dawn is also uncertain if she would be able to birth in the health facility located on the Isleta Pueblo, since she is not a member of the Isleta Pueblo but the baby's father is. And if she is unable to give birth in a traditional manner on the Navajo Nation, Dawn is not certain if she would be able to afford the cost of giving birth in a birthing center or at home with a Navajo or other indigenous midwife at her house near Albuquerque. All of these questions are of great concern to Dawn, but also her immediate and extended family.

Dawn's story is a composite of the many stories we hear from Indigenous people in the region we serve. This scenario represents just one of the many complex situations Indigenous people face when it comes to their healthcare, especially during the perinatal period. For an Indigenous woman, like Dawn, even while living in Albuquerque her "local" healthcare system becomes the Albuquerque IHS facility as well as the IHS facility on the Navajo Nation. Each individual may have a different "local" system, even if they all live in Albuquerque, because they may each have different tribal affiliations and healthcare payor options. No single entity in the healthcare ecosystem is in charge of making this local system navigable for individual Indigenous people. This leads to people delaying prenatal care, having to travel long distances for care, and people receiving inadequate, culturally insensitive or discriminatory treatment. When a history of violence or abuse is added to this scenario, the fragmentation is even more destabilizing. When the perinatal care is also violent or abusive it can be devastating and impact the whole family system for generations.

The Rights of Indigenous Women and Girls Need Protection

At the tribal, state and federal levels Indigenous mothers are left out of policy-decision making. These interconnected systems are unresponsive to someone like Dawn, who is uncertain whether she should seek perinatal healthcare from her local Albuquerque IHS facility, Navajo Nation IHS facility, or with a private institution through state medicare eligibility, and who is unable to pay out-of-pocket. Due to her confusion about how to obtain culturally based care she may end up unintentionally delaying critical prenatal care and could face added stigma and discrimination as a result of the fact that no one within the existing systems is positioned to help her sort these barriers out.

This fragmentation is an example of the complexity that keeps the needs of Indigenous parents remote from health policy decisions. The result is a lack of needed policies, lack of information about laws and alternatives, conflict and confusion among laws, and lack of political will/neglect.

Indigenous women and girls' right to health is comprised in this system. They suffer the worst outcomes in sexual and reproductive care and there is no accountability for the violations of human rights that they experience (IACHR, 2017). We write to affirm what has been documented by others: lack of culturally congruent care, lack and denial of information, forced interventions including sterilization, geographic and language barriers.

Health Care System Problem

The Local Health System

Changing Woman Initiative headquarters, and Breath of My Heart Birthplace are located in Northern New Mexico. This region presents a perfect sample of the complex historical, legal and regulatory barriers at issue for Indigenous perinatal health equity.

Each Tribe and Pueblo is a sovereign nation with its own government, life-ways, traditions, and culture as well as different legal systems, that overlap and interact with state, federal and international legal systems. Pueblos are different from other tribal land allotments because they originated from land grants by the Spanish government that were later adopted by the U.S, whereas other tribal land allotments originated with the U.S. government. New Mexico includes within its boundaries both Pueblos and Tribes with land bases; there are twenty-two of them. This adds not only to the legal and policy complexity but the sheer volume of distinct legal systems. This complex interaction between systems (which is not the same for every Indigenous person, because each Tribe or Pueblo is not the same) impacts the local health system that those seeking maternity care experience. The "local health system" is more complex for an Indigenous person than any other group of people in the United States.

At the tribal level, there are no policies for how to address this, and the tribal leaders do not have the political will to make it a priority. At the State level it is a challenge because tribal land crosses state boundaries and provider licensing is handled by the State. Licensing requirements, especially for midwives and community birth, vary dramatically between states. Furthermore, it is unclear whether the State would have the jurisdiction over a midwife licensed in the state of New Mexico who practices on the sovereign land of the Navajo Nation.

Payment is another complicating factor since a greater proportion of Native women are uninsured, Indian Health Services is the payor of last resort, and contracting for services outside one's tribal area is restricted and defined by each tribe or IHS facility. Additionally, the Indigenous people who live in the region are a heterogeneous group from many different Tribes and Pueblos, including Tribes outside of New Mexico.

Colonization

This is also one of the earliest areas of colonization in North America: Santa Fe is the oldest state capitol in the country. The Navajo Nation crosses state boundaries in New Mexico, Arizona and Utah, and since the Navajo Nation has the largest land area retained by a tribe in the United States the region is additionally important. Addressing the consequences of colonization is particularly ripe here, and necessary for equity. The underlying problem is similar to that facing Black women who experience extreme disparities in birth outcomes including inequitable rates of maternal mortality, regardless of income level or educational attainment. This has come to be understood as a consequence not so much of the individual clinical presentation of each Black woman, but a natural result of systemic racism and white supremacy. For Indigenous women the problem is also systemic, but distinct.

The mechanisms of colonization are different from, though connect through white supremacy to the mechanisms of slavery. They have distinct legal and policy histories and frameworks. The legal mechanisms of colonization changed throughout history from outright theft of Indigenous land that was legally rationalized through the "doctrine of discovery," and the concept of "manifest destiny," to treaty rights, assimilation, and the policy era of "self-determination" that is still underway and contested. With each change in policy, vestiges of the prior policies remained, amounting to a complex patchwork of legal doctrines and legislation, resting on a

fundamentally flawed and inhumane premise (essentially, that Indigenous people could be treated differently and unequally under the law). On top of this, policy issues affecting women were often deprioritized, partly due to the importation and forced adoption of dominant colonial sexist values. Like slavery, this system of inequality, has consequences for the present-day health and well-being of Indigenous people.

The Consequences of Colonization

Healthcare in Indigenous communities, especially perinatal healthcare, is an area that is in dire need of reexamination in order for Indigenous communities to thrive. The consequences of colonization, supported by legal and policy structures that remain today, include disparities in health outcomes, fragmentation, but also racism and discrimination, mistreatment, and neglect. As mentioned above the maternal mortality rate for Indigenous women across the United States is estimated to be 4.5 times higher than that of non-Hispanic White women. But as with all maternal mortality data this is not definitive since not all States track maternal mortality in a uniform way. Plus, there is the heterogeneity of the population categorized as Indigenous, or even the population of people categorized more narrowly by the U.S. Census as American Indian or Alaska Native or Native Hawaiian or Other Pacific Islander.

In New Mexico, on some measures, there are less disparities for Indigenous women but that doesn't mean the outcomes are good overall. For example, New Mexico's pre-term birth rate is scored as a C-, but it is only 2% higher than the best rate for people categorized as American Indian or Alaska Native. But in some areas that we serve the preterm birth rate has worsened in recent years. And American Indian and Alaska Native women in the region have lower rates of early and adequate prenatal care, higher rates of uninsurance, and almost double the average poverty rate. Further, it is estimated that one in two American Indian and Alaska Native women have experienced sexual violence. Because Indigenous women experience high rates of assault and violence, a campaign called Missing and Murdered Indigenous Women has grown to bring awareness to this epidemic. (4-5 women).

These staggering statistics are evidence of the discrimination and systemic neglect Indigenous women face. Indigenous women who gave birth at an Albuquerque hospital recently, were racially profiled and separated from their infants based on a hospital policy that singled out tribally located families. Such separations are traumatic, especially for Indigenous people with a history of child removal, and can have long term health and mental health effects. Even in the middle of the COVID-19 pandemic, another IHS facility's obstetrics unit in the Southwest area was shut down without notice, leaving numerous Indigenous expectant mothers without options for prenatal care and delivery.

Healing Pathways

These are present-day manifestations of genocidal policies that include the colonization of Indigenous peoples' reproduction. As a result of forced sterilization, removal of children, assimilation/the loss of birth customs and rituals, underfunding and neglect of perinatal health care, Indigenous women giving birth today need community-based solutions beyond Western medical intervention. As Patrisia Gonzales explains, Red Medicine is needed, "Red Medicine addresses how birthing and the attendant ceremonies that comprise rites of regeneration of Indigenous knowledge are medicinal practices that address soul loss, land loss, and cultural and spiritual fragmentation."

We must clear away barriers so that Indigenous women may have an affirming and sovereign experience of childbirth regardless of where they are from. This includes tribal, local, state and

federal policy barriers, barriers erected by bias and discrimination experienced during health care, as well as the internalized barriers that result from colonization.

Our organizations provide and support a model of Indigenous midwifery that will reconstruct healthcare delivery in a way that addresses culturally rooted teachings around language, land, plant medicine, and community relationships in an effort to heal community and Indigenous communities in general. But this process will take many generations since the knowledge has to be rebuilt and reclaimed. Indigenous midwifery needs to be promoted and the expectations of Indigenous families about what sovereign birth can be like needs to be expanded.