

Relating reproductive justice to clinical practice

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The work of women's health nurse practitioners (WHNPs) is inextricably tied to reproductive justice. The frameworks of reproductive health, reproductive rights, and reproductive justice can be used to illustrate how policies impact practice and the health and wellbeing of patients. Recommendations for how WHNPs can be more effective advocates for reproductive justice are discussed.

KEY WORDS: reproductive justice, reproductive rights, healthcare access

In June of 2021, pop star Britney Spears made headlines when audio of a hearing about her conservatorship was leaked to the media. In her testimony, Ms. Spears said her desire to marry and have a child was being denied because she was being forced to keep an intra-uterine device in place even though she wanted it removed. Her words struck a nerve and triggered a public debate about the injustice of her situation. Although disturbing, this high-profile, widely publicized example of Ms. Spears' experience is not the first or worst example of reproductive injustice. Indeed, the inappropriate use of long-acting reversible contraceptives has been linked to a history of the abuse and disrespect of marginalized communities.^{1,2} In 2017, an unaccompanied pregnant minor from Central America was detained in Texas by federal officials to prevent her from having an abortion. Only after a federal appeals court ruled in her favor was the young woman allowed to seek the abortion she wanted.^{3,4} And in 2018, tennis champion Serena Williams made headline news as she shared her distressing birth experience that highlighted the racial disparities experienced by Black women in maternal healthcare, including a pregnancy-related death rate that is 3 to 4 times higher for Black women than it is for White



women.^{5,6} These cases exemplify the three core principles of reproductive justice: the right to have a child, the right to not have a child, and the right to raise a child in a safe and healthy environment.⁷ Reviewing how the principles of reproductive justice play out in the lives of patients will enhance the knowledge and ability of women's health nurse practitioners (WHNPs) to be effective advocates for change.

Reproductive justice defined

Reproductive justice is a framework that goes beyond individual choice and access to care and analyzes how the social reality of inequality limits the ability for a person to control their reproductive destiny.⁷ The term was first defined in 1994. At that time, a group of Black women in Chicago gathered and recognized a new movement was necessary to better meet the needs of marginalized women, women of color, and people who identify as transgender. They delineated the three basic tenets of reproductive justice and went on to form SisterSong Women of Color Reproductive Justice Collective, beginning a national, multiethnic reproductive justice movement.⁷ Loretta J. Ross, a cofounder of SisterSong and cocreator of the theory of reproductive justice, is a well-known activist, advocate, and author who has been pivotal in the movement. Reproductive justice is viewed as a human right and is based on the United Nations internationally accepted Universal Declaration of Human Rights, a document which enshrines the freedoms and rights inherent for all people.⁸ Intersectionality is a term used to describe how race, class, gender, and other individual characteristics intersect and overlap having relevance in how reproductive justice is distributed.

An intersectional perspective deepens the understanding that there is diversity and nuance in the ways in which people hold power or experience oppression.

Taken together, three advocacy frameworks provide a holistic approach to advance human rights and address the interconnecting threads of reproductive oppression. The reproductive health framework encompasses the delivery of care. The framework of reproductive rights addresses the legal issues centered on autonomy. The reproductive justice framework is often viewed as a movement focused not only on choice but also, and more importantly, on access.^{9,10} Each framework uses strategies to achieve stated goals and can be used to identify ways in which WHNPs can advance the goal of reproductive justice.

Reproductive health

The reproductive health framework focuses on sexual and needed reproductive healthcare services. Reproductive health outcomes are viewed as consequential to the access of reproductive services, insurance, and individual care provided. From this perspective, an unintended pregnancy may be viewed as the result of a lack of access to contraception or a lack of education on the effective use of contraceptives.¹¹ Organizations such as the Planned Parenthood Federation of America, community health centers, and school-based clinics are crucial to address concerns about access. A legal right to reproductive healthcare does not necessarily equate to receiving this care, however, as individuals have varying levels of access to sexual and reproductive services and education.

WHNPs can advocate for and support policies that increase access to

sexual and reproductive healthcare. Medicaid is a federal/state partnership that provides healthcare coverage for those living on a low income. More than 20% of women and almost half of low-income women of reproductive age rely on Medicaid and other public health programs for coverage.¹² In 2019, nearly half of all births in the United States were financed by Medicaid.¹³ Under the Affordable Care Act, states were given the opportunity to expand the pool of qualified individuals to be covered. To date, 38 states and the District of Columbia have opted to expand Medicaid coverage and 12 states have not.¹⁴ An additional 2.2 million uninsured individuals could be covered if the 12 states opted to expand Medicaid coverage.¹⁵ Women would be more likely to be impacted by expanding coverage of Medicaid, because women are more likely to be living in poverty and, of those women, women of color are disproportionately represented.¹⁶

Fertility concerns may impact the ability of one's right to have a child. Infertility impacts approximately 10% to 15% of heterosexual couples, which does not include single or lesbian, gay, bisexual, transgender, and questioning (LGBTQ) individuals who desire children. No state Medicaid program covers artificial insemination or in-vitro fertilization, and New York is the only state that covers any fertility treatment. Fifteen states require private insurers to cover some fertility treatment, although out-of-pocket costs remain significant. Women seeking assistance to become pregnant tend to be older than age 35, White, have a higher income, and covered by private insurance. Fertility services are often out of reach for women of color due to limited resources and the high cost of services.¹⁷

Title X is the federal program that

provides family planning services for low-income people and serves nearly four million each year.¹⁸ Regulations have always prohibited Title X funds from being used for abortion care. The so-called “gag rule” imposes strict requirements separating Title X-funded activities from a range of abortion-related activities including options counseling or abortion referral information.¹⁹ Historically, Republican administrations impose the gag rule on entering office and Democratic administrations repeal the rule, which can impact federal and international programs. In 2019, under the Trump-Pence administration, the capacity to provide Title X services was cut by 50%.²⁰ On January 28, 2021, President Biden took the first step toward rescinding the “gag rule” when he signed a presidential memorandum directing the US Department of Health and Human Services to review the regulations and consider whether to suspend, revise, or rescind them. In April of 2021, Biden signed an executive order to overturn the restrictions, but it is estimated that it will take months to reverse the damage done by the gag rule.²¹ The rule is one example of how easily access to needed sexual and reproductive healthcare can be compromised, especially for marginalized populations, with the consequential impact on reproductive justice.

The Hyde Amendment is another example of how Congress has limited access to reproductive healthcare for poor women. The amendment was authored by Illinois representative Henry Hyde in 1977 and prohibits federal funds from covering abortion for individuals on Medicaid, Medicare, and the Children’s Health Insurance Program.²² Individuals in 34 states are impacted by the Hyde Amendment. Sixteen states have adopted policies that

provide their own funding for abortion coverage for those on Medicaid.²² The Biden Administration has proposed a budget that does not include the Hyde Amendment for the first time since 1980.²³ Removing the amendment would prevent the discriminatory practice of limiting a woman’s access to abortion simply because she is poor.

Other policies and practices can be adopted to increase access to reproductive health services. Online services provide contraceptives through the mail, removing a barrier, especially for those in rural areas.²⁴ Proposals to make contraceptives available over the counter are supported by a variety of organizations including the National Association of Nurse Practitioners in Women’s Health (NPWH), American College of Obstetricians and Gynecologists (ACOG), and the American Academy of Pediatrics.²⁵ Expanded use of telehealth may increase access to care provided that broadband services are equitably distributed, an issue that was addressed by 43 legislatures across the country in 2020.²⁶

Sexual and gender-diverse individuals need and deserve access to inclusive, evidence-based, and comprehensive reproductive healthcare services. Lack of provider knowledge has been identified as a barrier to care for them.²⁷ Healthcare provider education is often lacking in content related to LGBTQ populations.²⁸ WHNPs can address this gap in knowledge related to sexual and gender-diverse persons by providing care with cultural humility. This involves assessing and addressing one’s implicit bias, seeking out educational opportunities to expand knowledge, and creating an inclusive clinical setting and practice.

WHNPs can look beyond their clinical practice and increase access to care by becoming engaged in

their community and professional organizations. As of June 21, 2021, 39 states and the District of Columbia mandate sex education and/or HIV education. Only 18 states require program content to be medically accurate, and six states require only negative information to be provided on same-sex activity and/or positive emphasis on heterosexuality.²⁹ In addition to providing counseling and services, WHNPs can assist in the development of evidence-based curricula and contact legislative representatives as these policies are introduced and debated at the local and state level.

Reproductive rights

The second advocacy framework, reproductive rights, focuses on individual legal rights to reproductive healthcare services with an emphasis on increasing access to family planning services and keeping abortion legal.¹¹ Elected officials, attorneys, and advocacy organizations play a major role in advocating for these rights. Strategies include state and federal advocacy, lobbying, and creating legislation. A legal right to reproductive health services does not mean that the services will be accessible or distributed equitably as restrictive laws can prevent access. For example, four states allow healthcare providers to refuse to provide abortion services and nine states allow individual healthcare providers to refuse to provide services related to contraception.³⁰ In 2020, the Supreme Court ruled that organizations with religious or moral objections may be excused from providing insurance coverage for birth control to their employees.³¹ Within the next year, the Supreme Court will hear oral arguments on a case involving the state of Mississippi that would ban abortion after 15 weeks’ gestation. If upheld, the

case would essentially overturn one of the essential tenets of Roe, which is that states cannot ban abortion before viability.³² On September 1, 2021, Senate Bill 8 was enacted into law in the state of Texas. The law seeks to ban abortion after approximately 6 weeks of pregnancy and shifts enforcement of the law to private individuals who can sue anyone who provides abortion or assists someone in obtaining care in the state. On September 1, 2021, the Supreme Court denied an emergency request to block the law from going into effect.³³ On September 9, 2021, the Department of Justice filed a lawsuit against the state of Texas stating the law was unconstitutional because it bans abortion before viability.³⁴ The outcome of this case has far-reaching implications for reproductive rights across the country.

The reproductive rights of individuals who identify as transgender are challenged by accessibility and cost. Discrimination in the healthcare setting against individuals who identify as transgender has been well documented and can make it difficult for a person to seek care.^{27,35} Hormone-affirming therapy or surgery may impair the ability of someone to reproduce. Fertility preservation is often cost prohibitive, especially for individuals who may already bear the cost of the medical care associated with transitioning.³⁵ Most states lack laws that protect individuals who identify as transgender from discrimination when seeking to serve as foster or adoptive parents.³⁶ Individuals identifying as LGBTQ may pursue fertility services for reasons that may not meet the definition of infertility, thus disqualifying them for insurance coverage.¹⁷

WHNPs can harness their power for advocacy in access to reproductive services by supporting organizations such as NPWH that

advocate for reproductive rights on the federal level. In our representative democracy, it is imperative that one is aware of who their representatives are and where they stand on issues related to reproductive rights. As a content expert in reproductive health, WHNPs can serve as a resource to elected officials and insist that policies be evidence based.

Reproductive justice

The framework of reproductive justice is not limited to abortion or contraception but rather takes a broader view and seeks to create “better lives for women, healthier families, and sustainable communities.”¹⁰ This mission is shared by other social movements that can join together to build a more powerful coalition. Maternal health disparities are an issue of reproductive justice. Pregnancy-related deaths in the US have increased from 7.2 deaths per 100,000 live births in 1987 to 17.3 deaths per 100,000 live births in 2017.³⁷ Considerable disparities exist, with non-Hispanic Black and American Indian/Alaska Native mothers dying at 2 to 3 times the rate of their White counterparts. Over the age of 30, the pregnancy-related mortality of Black and American Indian/Alaska Native mothers is 4 to 5 times higher than that for White women. Indeed, the states that have opted out of expanding Medicaid are among the worst in maternal mortality.³⁸ Steps must be taken to address these inequities. The Center for Reproductive Rights published a report to address reproductive injustice. The recommendations include proactive steps to eliminate institutional racial and gender discrimination, improving monitoring and accountability standards, equitable allocation of reproductive resources, and the elimination of discriminatory policies that restrict immigrant women’s access

to health insurance based on their citizenship status.³⁹ A few of the organizations mobilizing and educating in the name of Black maternal health include Roots Community Birth Center, National Birth Equity Collaborative, and Black Mamas Matter Alliance. In addition, several legislators have adopted the cause.⁴⁰

The Black Maternal Momnibus Act of 2021 was introduced in February. The bill builds on existing maternal health legislation and aims to address the significant inequities that Black mothers face across the country. The legislation brings together many social issues to address maternal outcomes such as housing, nutrition, mental healthcare, investments in telehealth in rural areas, and reducing climate change. The bill has been endorsed by 240 organizations including NPWH, ACOG, American Academy of Nursing, and the Association of Women’s Health Obstetric and Neonatal Nurses.⁴⁰ Similar bills have been introduced in state legislatures, creating an opportunity for various advocacy groups to join and collectively leverage their power and build support for the comprehensive agenda to address reproductive justice.⁴¹

Call to action for reproductive justice

The human cost of unjust public policy impacts the lives of our patients. These policies are at play when a pregnant woman seeks to qualify for medical assistance so she can obtain prenatal care, or when we see a patient in need of fertility assistance to achieve pregnancy. They impact our patients who cannot afford contraception, are unable to access or pay for an abortion, or are managing the care of a preterm infant. Policies and laws do not spontaneously exist. They are the result of individuals or groups bringing an idea forward and

debating the issue. As a WHNP, it is part of our professional responsibility to be engaged in these discussions on some level to advance reproductive justice. The level of involvement may vary across a lifetime given one's roles and responsibilities. Registering to vote and planning to vote in every election is a good place to start. To understand how your voice is being represented, it is important to identify one's state and federally elected officials and how they vote on issues related to reproductive justice. Online resources make it easy to identify representatives in each area and how to contact them. Share your expertise. Elected officials come from a variety of backgrounds, and it is likely that you are more informed on an evidence-based approach to care than are they. Organize with other WHNPs. It is vital to be a member of organizations like NPWH who represent and advocate for WHNPs. Running for office is another way to share your expertise to help shape public policy. Various organizations such as Emily's List and She Should Run exist to help women run for office.⁴² Nurses represent the largest number of healthcare professionals. Nurses have also been chosen as the most highly respected profession year after year in Gallup polling.⁴³ Those two factors equate to a great deal of potential power and responsibility. The time is now to embrace the power that you have to impact reproductive justice and help shape the policies of tomorrow to create a world that is more inclusive, just, and equitable. ■

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