

THE MYTH OF ABORTION AS BLACK GENOCIDE: RECLAIMING OUR REPRODUCTIVE CHOICE

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As a college freshman I was confronted with a false and damaging representation of my own medical choices. Ironically this condemnation of abortion occurred while I was volunteering at a conference centered around the empowerment and upward mobility of other young Black people. One week earlier I had taken the misoprostol pills to initiate the passing (or aborting) of a fetus. I instantly felt relief upon beginning that process. I felt more like myself, and felt reassured that I, as a person, not as an expectant mother, mattered. That I was important and that my future was significant. For some reason, a seemingly well-meaning older Black man began to lecture me about the “abortion war” being waged against our communities. Right there, at the check in table I was staffing, my relief instantly turned into doubt and disgust. I had to excuse myself from the check in table. I went into the nearest restroom and I cried. I tried to reach my then boyfriend. He, in

his usual manner, didn't answer. That missed call is a symbolic reminder that when it comes to "choosing" abortion, us Blackwomen¹ are largely on our own. We as Blackwomen often make and follow through with the decision to terminate our pregnancies all by ourselves. I write this paper with the hope that it will bring relief to young Blackwomen and girls facing the same "choice" that I faced. I also hope that it serves as a reminder of our full and incredible humanity. We are not and have never been mere vessels from which revolutionaries are born. We are the revolution.

I. INTRODUCTION

Some anti-choice² and self-proclaimed anti-racists believe that abortion is yet another tool of white supremacy being used to commit genocide

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¹ See Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1707, 1719 n.34 (1993). In this Article, I endorse Harris's justification for using the appellation "Blackwomen": "My use of the term 'Blackwomen' is an effort to use language that more clearly reflects the unity of identity as 'Black' and 'woman,' with neither aspect primary or subordinate to the other. It is an attempt to realize in practice what has been identified in theory—that, as Kimberle Crenshaw notes, Blackwomen exist "at the crossroads of gender and race hierarchies." Id. (quoting Kimberlé Crenshaw, *Whose Story Is It, Anyway?*, *Feminist and Antiracist Appropriations of Anita Hill*, in RACE-ING JUSTICE, EN-GENDERING POWER: ESSAYS ON ANITA HILL, CLARENCE THOMAS, AND THE CONSTRUCTION OF REALITY 402, 403–04 (Toni Morrison ed., 1992)); see generally Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Anti-Discrimination Doctrine, Feminist Theory and Anti-Racist Politics*, U. CHI. LEGAL F. 139 (1989). (Explaining the use of the term "Blackwoman").

² The terminology used by the websites and materials for these activists and organizations is "pro-life." Unlike some authors, I have chosen not to use that term and instead focus on choice as the operative term with those who are proponents of reproductive choice being pro-choice, and those who are against reproductive choices including abortion as anti-choice. Contra Sylvia A. Law, *Abortion Compromise—Inevitable and Impossible*, 25 U. ILL. L. REV. 921, 933 n.67 (1992) (discussing the terms anti-abortion and pro-choice).

against the Black³ race.⁴ The underlying assumption of this myth is that Blackwomen lack the critical thinking skills to avoid falling into the pitfall of “murdering their babies.”⁵ Abortion by Blackwomen is often blamed on white women and their feminism as an insidious tool to further eradicate Black people in America.⁶ Prominent believers in this myth range from presidential candidates to religious leaders like Luis Farrakhan and Pastor Cleard Childress.⁷ Some Black anti-choice activists also believe that any contraception, or practices which limit the conception of Black infants is an act of genocide against the Black race.⁸

This article explores the abortion as Black genocide as it pertains to Blackwomen and their reproductive rights, the basis for this myth, as well as its proponent’s arguments. After defining genocide and the stereotypes used by proponents of the abortion of Black genocide myth in Part I, Part II names and describes the past and current proponents of the myth. In

³ I capitalize “Black” throughout the Article for the same reasons that Cheryl Harris and Kimberlé Williams Crenshaw articulated more eloquently in *Whiteness as Property*, *supra* note 1. The usage of a lowercase “N” in the term “negro” in print was and is used to signify inferiority of the Black race. See Harris, *supra* note 1, at 1710 n.3. Given the political history of Whiteness and its dependence on Black subordination the capitalization of Whiteness reinforces that domination. Id. at 1710. In contrast, “Black” and Blackness is not dependent on domination, thus its capitalization its counter hegemonic to white supremacy and the use of both the lowercase “N” and “B” in Negro and Black respectively. Id. at 1710, n.3.

⁴ L.E.A.R.N. Ne., *Abortion & Genocide*, BLACK GENOCIDE, <http://www.blackgenocide.org/abortion.html> (last visited Jan. 6, 2017).

⁵ Proponents of this myth often personify the terminated fetus to the status of baby, child, or person. See, *Medical Testimony*, LOXAFAMOSITY MINISTRIES, http://www.abort73.com/abortion/medical_testimony/ (last visited Jan. 6, 2017).

⁶ The assumption that feminism is a creation of only white women ignores the long history of activism by Black feminists. See Stacey Tisdale, *Gloria Steinem on Black Women ‘They Invented the Feminist Movement’*, BLACK ENTERPRISE, <http://www.blackenterprise.com/lifestyle/arts-culture/be-womens-history-month-feminist-icon-gloria-steinem-talks-black-women-feminism> (Mar. 19, 2015) (quoting Gloria Steinem, “I thought they invented the feminist movement. I’ve learned feminism disproportionately from black women I realize that things being what they are, the White middle-class part of the movement got reported more, but if you look at the numbers and the very first poll of women responding to feminist issues, African American women were twice as likely to support feminism and feminist issues than White women”).

⁷ Pastor Childress is the founder of L.E.A.R.N. (Life Education And Resource Network”) and organizer of the African American Pro-Life “Say So” annual march to end abortion. See L.E.A.R.N. Ne., *The Director*, BLACK GENOCIDE, <http://www.blackgenocide.org/abortion.html> (last visited Jan. 6, 2017); *Pro-Life African Americans March to the Supreme Court Hoping to Bring an End to Abortion*, BLACK NEWS (Oct. 23, 2014), <http://www.blacknews.com/news/learn-african-american-pro-life-group-march-end-abortion/#.Vob63DZlnBI>.

⁸ Simone M. Caron, *Birth Control and the Black Community in the 1960’s: Genocide or Power Politics*, 31 J. OF SOC. HIST. 546 (1998).

Part III, the myth of abortion as Black genocide is placed in the long history of Blackwomen and reproductive control here in the United States. Part IV explores the myth in its current form, including examples of outreach and advertisements by its proponents. Part V showcases Blackwomen's already robust response to this myth and highlights their continued participation in the struggle for Black liberation stateside.

A. *Legal Definition of Genocide*

The United Nations defines genocide in its 1948 Convention on the Prevention and Punishment of the Crime of Genocide as:

any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) Killing members of the group;(b) Causing serious bodily or mental harm to members of the group;(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;(d) Imposing measures intended to prevent births within the group;(e) Forcibly transferring children of the group to another group.⁹

Anti-choice activists rarely provide a clear definition of genocide, but by using the widely recognized UN definition it is most likely that they are focusing on point "a." The rhetoric used by these activists asserts the full personhood of any and all Black fetuses, thus abortion is the act of killing a member of the Black race.¹⁰ In *Roe*, the Supreme Court created a fundamental rights balancing test that centered on the gestational age of the fetus.¹¹ During the first trimester, the court held that a woman's right to privacy allowed her to make the decision to seek and have an abortion. After the end of the first trimester the court held that the state may regulate the procedure in ways that are reasonably related to maternal health. However, in the third trimester, the state's interest in women's health and protecting potential life was deemed stronger than the woman's privacy interest.¹² Unlike in *Roe v. Wade*, neither the viabil-

⁹ Convention on the Prevention & Punishment of the Crime of Genocide, art. II, Dec. 9 1948, 78 U.N.T.S. 277.

¹⁰ Emily Crockett, 'All Lives Matter' Is Now Being Used against Abortion Rights, Vox (Jan. 10, 2016 2:20pm EST), <http://www.vox.com/2016/1/10/10745722/all-lives-matter-abortion>.

¹¹ *Roe v. Wade*, 410 U.S. 113, 154 (1973).

¹² *Id.* at 164. In the subsequent plurality opinion of *Casey v. Planned Parenthood*, the Supreme Court reaffirmed the central holding of *Roe v. Wade*. Instead of the trimester framework, the court implemented an "undue burden" standard that is satisfied when a regulation places substantial obstacles "in the path of a woman's [fundamental right to choice]." *Planned*

ity nor the gestational age are considered to determine whether abortion should be an available, legal option.

Although illogical, anti-choice activists equally blame abortion providers and pro-choice legislatures for what they believe to be genocidal behaviors. Under anti-choice logic, personhood begins at conception; thus, abortion is the killing of a member of a group. The intent requirement “to destroy, in whole or in part” is not addressed when anti-choice activists are accusing Blackwomen of committing genocide by abortion. In order to satisfy the intent requirement of the UN definition of genocide, anti-choice activists would have to prove that abortion providers and governments that allow abortions *intend* to destroy the Black race. To hold abortion providers responsible, activists would logically have to shift the blame from Blackwomen, rather than focusing their efforts on emotionally manipulative billboard campaigns, films, and websites.

The intent requirement as it pertains to individual Blackwomen is seemingly sidestepped by erasing their decision-making capacity. Instead, the blame is placed heavily at the feet of the government, for keeping abortion accessible,¹³ the doctors and clinics which provide abortions, and the (assumed) white feminism which is responsible for the widespread acceptance of abortion. Thus, proponents of the genocide myth assign blame to Blackwomen for choosing abortions, while also attempting to minimize their own decision making capacities by blaming white feminism and government actors.

Proponents of the abortion as genocide myth may also be arguing under section “d” of the UN definition of Genocide. Section “d” pertains to preventing births within a group, here the Black race. Although there is a historical basis for the argument that the US government is attempting to prevent births by Blackwomen, abortion has not typically been a tool in their reproductive coercion arsenal.¹⁴ By focusing on Blackwomen as perpetrators of genocide these activists undercut their own

Parenthood v. Casey, 505 U.S. 833, 840 (1992) (plurality opinion).

¹³ Abortion is hardly objectively accessible, particularly for Blackwomen. See Mary Treadwell, *An African American Woman Speaks Out for Abortion Rights*, in *DEAR SISTERS: DISPATCHES FROM THE WOMEN’S LIBERATION MOVEMENT* 149 (Rosalyn Baxandall and Linda Gordon eds., 2000).

¹⁴ The United States government has used federal funds for sterilization of Blackwomen as well as providing financial incentives for the use of Norplant for low income women on Medicaid. For a full discussion on the Norplant and its consequences for Blackwomen, see Dorothy Roberts, *KILLING THE BLACK BODY: RACE, REPRODUCTION, AND THE MEANING OF LIBERTY* 104–149 (1997).

arguments for liberation of the Black race by curtailing the freedom of bodily autonomy for Blackwomen. Instead of properly condemning government actions that harm living Blackwomen and the black community (poverty, police brutality, mass incarceration) genocide myth proponents blame Blackwomen for practicing their own reproductive rights.¹⁵

B. *Misogynoir and Stereotypes of Blackwomen*

The myth of abortion as Black genocide depends on denying Blackwomen their humanity and their agency to make medical decisions regarding their reproduction. The proponents of this myth rely heavily on misogynoir, which is anti-Black misogyny targeting Blackwomen. The term Misogynoir was created by queer Black feminist Moya Bailey who was searching for a term to correctly describe the particular brand of hatred (racialized sexism and sexist racism) aimed at fellow Blackwomen.¹⁶ Bailey has described its creation thusly:

I was looking for precise language to describe why Renisha McBride would be shot in the face, or why The Onion would think it's okay to talk about Quvenzhane the way they did,¹⁷ or the hypervisibility of Black women on reality TV, the arrest of Shanesha Taylor, the incarceration of CeCe, Laverne and Lupita being left off the TIME list, the continued legal actions against Marissa Alexander, the twitter dragging of black women with hateful hashtags and supposedly funny Instagram images as well as how Black women are talked about in music.¹⁸

All non-Blackwomen can be perpetrators of misogynoir, and in perpetuating the myth of abortion as Black genocide, anti-choice activists rely on misogynoir to accuse Blackwomen of committing genocide.

¹⁵ See Titania Kumeh, *Conspiracy Watch: Is Abortion Black Genocide?*, MOTHER JONES (Oct. 12, 2010, 5:00AM), <http://www.motherjones.com/media/2010/09/abortion-black-genocide> (discussing the theory of abortion as black genocide).

¹⁶ Kesiena Boom, *4 Tired Tropes That Perfectly Explain What Misogynoir Is- And How You Can Stop It*, EVERYDAY FEMINISM (Aug. 3, 2015), <http://www.everydayfeminism.com/2015/08/4-tired-tropes-misogynoir/> (describing harmful stereotypes that stem from misogynoir).

¹⁷ The Onion.com, a satirical website, called then nine-year-old Black academy award nominated actress Quvenshane Wallis a "cunt." *In Calling Quvenshane Wallis a Cunt, the Onion Perpetuates Status Quo on Black Femininity*, NEW BLACK WOMAN (Feb. 25, 2013), <http://www.newblackwoman.com/2013/02/25/in-calling-quvenzhane-wallis-a-cunt-the-onion-perpetuates-status-quo-on-black-femininity>.

¹⁸ Moyazb, *More on the Origin of Misogynoir*, TUMBLR (Apr. 27, 2014), <http://www.moyazb.tumblr.com/post/84048113369/more-on-the-origin-of-misogynoir>.

The proponents of this myth sexualize racism by centering Black-women and their wombs as the site of genocide, without taking into account the actions of any male partners. As a result, they have mentally separated the Blackwoman from the fetus in her uterus. Now, there is a potential (and often actual) conflict between the interest of the Black-woman (an actual person) and the embryo (who is being personified by anti-choice activists).¹⁹ This is an illustration of maternal-fetal conflict, a predicament that Blackwomen have long been forced into since the times of their enslavement.²⁰

The common stereotypes of jezebel and mammy are used as tools to justify the continued focus on the reproductive capabilities of Black-women. The jezebel stereotype paints some Blackwomen (particularly Blackgirls and young women) as promiscuous seductresses with insatiable sexual appetites.²¹ This stereotype helped to normalize, and to some explain away, the rape of enslaved Blackwomen by their masters and other men. In 1859, an appellate court in Mississippi overturned a death

¹⁹ Anti-choice activists such as Pastor Childress and Dr. Aveda King believe that personhood begins at conception. I believe that every woman has a right to make her own medical decisions. Penny Starr, Alveda King on ‘*Black Lives Matter*’—‘*From Conception to Natural Death*’, CNS NEWS (Jan. 8, 2015, 6:36 PM), <http://www.cnsnews.com/news/article/penny-starr/alveda-king-black-lives-matter-conception-natural-death>. I believe the ability to make and exercise these reproductive decisions is crucial to self-determination of women and girls. There is not a conceivable point where I personally believe that this right can be diminished or should be limited for the interest of the fetus. According to Guttmacher Institute, two-thirds of abortions occur at eight weeks or earlier, with ninety-one percent of abortions occurring within the first thirteen weeks. Fetal viability is widely accepted to be between twenty-two and twenty-four gestational weeks and even at this point I don’t believe that a woman’s ability to terminate her pregnancy should be abridged by legislation. See “*Induced Abortion in the United States: September 2016 Fact Sheet*”, GUTTMACHER INST., Guttmacher.org, at <https://www.guttmacher.org/fact-sheet/induced-abortion-united-states>. See generally Michelle Ye Hee Lee, *Setting the Record Straight on Measuring Fetal Age and the ‘20-Week Abortion’*, WASH. POST (May, 26 2015), available at <http://www.washingtonpost.com/news/fact-checker/wp/2015/05/26/setting-the-record-straight-on-measuring-fetal-age-and-the-20-week-abortion>. (Explaining that, some legislators are using an alternative date to begin the gestation term. Second trimester abortion bans tend to measure the gestational age from the believed moment of conception, and not the medically accepted LMP which is the first day of the pregnant woman’s last menstrual period. This makes abortion bans beginning at a certain week (for example 20 weeks) unreliable because the bill’s language and the common practice of doctors is at odds due to the uncertainty in knowing when conception has actually begun. The legislators’ use of conception as the beginning of a pregnancy just further evidences their lack of medical input and the lack of practicability of arbitrary abortion bans based on week benchmarks.)

²⁰ Roberts, *supra* note 14, at 39.

²¹ David Pilgrim, *Jezebel Stereotype*, FERRIS STATE UNIV. (2012), <http://www.ferris.edu/news/jimcrow/jezebel.htm>.

sentence for a Black male slave convicted of raping an enslaved Black-girl around 9 years old.²² The legal basis for the decision was that the law did not recognize rape between slaves.²³ Despite the young age of the victim, the stereotypes of lewd and promiscuous Blackgirls and women kept her rape from being recognized by law.

Even after emancipation, Blackwomen were assumed to be naturally promiscuous and lewd, thus incapable of being legally raped.²⁴ As Dorothy E. Roberts, an American scholar and social justice activist writes, “The image of the sexually loose woman who is unrapable, who always consents, and who is therefore unprotected by the law, is a black woman.”²⁵ Tracking the continued sexualization of Black bodies before, during, and after the end of chattel slavery showcases the continued sexualized violence that Blackwomen face and endure without legal recourse. After emancipation, Blackwomen were at continued risk of rape by their white employers privileged by a legal system that fails to see Blackwomen as sexual victims deserving of justice.²⁶ Even in modern times, for every one Blackwoman that reports her rape 15 others do not.²⁷ Further the over incarceration of Blackwomen puts them at greater risk for sexual violence within the prison system.²⁸

²² A. Leon Higginbotham, Jr., Essay, *What Took Place and What Happened: White Male Domination, Black Male Domination, and the Denigration of Black Women*, WASH. POST (1995), available at <http://www.washingtonpost.com/wp-srv/style/longterm/books/chap1/race.htm>.

²³ *Id.*

The crime of rape does not exist in this State between African Slaves, our laws recognize no marital status as between slaves, their sexual intercourse is left to be regulated by their owners. The regulations of law, as to the white race, on the subject of sexual intercourse, do not and cannot, for obvious reasons, apply to slaves; their intercourse is promiscuous, and the violation of a female slave by a male slave would be a mere assault and batter slaves; their intercourse is promiscuous, and the violation of a female slave by a male slave would be a mere assault and battery.

Id.; Patricia A. Broussard, *Black Women's Post-Slavery Silence Syndrome: A Twenty-First Century Remnant of Slavery, Jim Crow, and Systemic Racism—Who Will Tell Her Stories?*, 16 J. GENDER RACE & JUST. 373, 381 (2013); accord ENCYCLOPEDIA OF RAPE 235 (Merril D Smith ed. 2004).

²⁴ Higginbotham, *supra* note 22.

²⁵ Dorothy E. Roberts, *Rape, Violence, and Women's Autonomy* 9 UNIV. PA. LEGAL SCHOLARSHIP REPOSITORY 359, 365 (1993).

²⁶ *Id.* at 366.

²⁷ Bureau of Justice Statistics Special Report. Hart and Rennison, 2003, U.S. DEPT. OF JUSTICE.

²⁸ “[A]n African American woman is eight times more likely than a European American

On the other hand, some Blackwomen are labeled as mammies and pushed to fulfill a strong and desexualized matriarchal role. Mammies originated as overweight, often dark-skinned, Blackwomen who cared for their masters' and later their employer's children with selfless love.²⁹ Despite being literal property, the mammy is always loving to her white family and seems to genuinely care for them.³⁰ A common depiction of this non-threatening caricature is that of Aunt Jemima, the syrup brand character.³¹ The mammy stereotype in its modern depictions transfers the previous affections for the master's family to her own Black family. Modern films that use this stereotype include *The Help*, *Big Momma's House*, and the entire *Madea* and *Nutty Professor* franchises.³² The spirit of the mammy is reintroduced to Blackwomen when they are urged to think of their fetuses first, and themselves and their wants second, if at all.

II. SUPPORTERS OF THE MYTH OF ABORTION AS BLACK GENOCIDE

Many Black religious leaders, in many Christian denominations as well as leaders of the Nation of Islam, preach that abortion by Blackwomen is contributing to genocide.³³ Baptist Pastor Childress has coined the phrase, "the most dangerous place for an African American is in the womb of their African American Mother."³⁴ Pastor Childress is the president of the Life Education and Resource Network (LEARN), the largest Black anti-choice group in the United States.³⁵ He also launched the

woman is to be imprisoned." Amnesty Int'l, *Women in Prison: A Factsheet 2*, http://www.pris-onpolicy.org/scans/women_prison.pdf.

²⁹ Jim Crow Museum of Racist Memorabilia, *The Mammy Caricature*, FERRIS STATE UNIV., <http://www.ferris.edu/jimcrow/mammies/> (last visited Jan. 6, 2017).

³⁰ Id.

³¹ Id.

³² *Big Momma's House* and the *Madea* and *Nutty Professor* franchises further the desexualization of Black Matriarchs by allowing men in drag to portray these roles (Martin Lawrence, Tyler Perry, and Eddie Murphy respectively). Hilary Christian, *There's Nothing Funny in the Misogynoir of Crossdressing Instagram 'Comedians'*, FOR HARRIET, <http://www.forharriet.com/2015/09/theres-nothing-funny-in-misogynoir-of.html#axzz4c19acTvH>

³³ Pastor Clenard H. Childress Jr. is a Baptist Pastor, while Dr. Alveda King is an Evangelist Christian. L.E.A.R.N. Nebraska, *supra* note 7; see also Evangelist Alveda C. King, PRIESTS-FORLIFE, <http://www.priestsforlife.org/staff/alvedaking.htm> (last visited Jan. 6, 2017); Kathryn Joyce, *Abortion as 'Black Genocide': An Old Scare Tactic Re-Emerges*, Political Res. Associates (April 29, 2010) <http://www.politicalresearch.org/2010/04/29/abortion-as-black-genocide-an-old-scare-tactic-re-emerges>.

³⁴ Thomas D. Williams, *Black Pastor Tells NAACP Abortion is Racist Genocide*, BREITBART (Jul. 20, 2015), <http://www.breitbart.com/big-government/2015/07/20/black-pastor-tells-naacp-abortion-is-racist-genocide>.

³⁵ Id.

website Blackgenocide.org in 2012 where he argues that abortion has caused 15.5 million deaths since 1973.³⁶

The Nation of Islam (NOI) also holds strong anti-choice and anti-contraceptive views based both on theology as well as their understanding of government provided reproductive services. The NOI's views and theology are not that of Sunni or Shia Muslims and in fact are vastly different when it comes to race.³⁷ The NOI is a strictly Black organization and holds anti-white separatist ideals.³⁸ Further, NOI personifies God in their founder WD Fard, in direct contradiction to the more mainstream interpretations of the Quran that Sunni and Shia Muslims follow.³⁹ They also uphold Elijah Muhammad as another and recent prophet of God, despite Muhammad's proclamation that he was the final prophet of God.⁴⁰

The "prophet" Elijah Muhammad preached strict paternalism over Blackwomen and girls in his religious organization. Female members recall feeling safe in the presence of their NOI brothers noting, "[t]hey would not allow you to walk at night by yourself. If you came to a meeting you could rest assured that someone would take you home."⁴¹ This paternalism also functioned to limit premarital sex of Blackwomen in the Nation. One male member recalled ". . . Bein[g] chaperoned was there to benefit them. You know to eliminate this (sexual advances by men)."⁴²

³⁶ See Gerard M. Nadal, *Black Genocide and Planned Parenthood, Coming Home* (Feb. 1, 2010), <https://www.gerardnadal.com/2010/02/01/black-genocide-and-planned-parenthood> (depicting a graph originally provided by Rev. Childress of LEARN, the largest anti-choice Black organization in the United States).

³⁷ Unlike the NOI, which is focused on only Black members, Sunni and Shia followers are of many different races and ethnicities. "[I]n religious writings the dominant normative view echoed the Koran's insistence that religiosity took precedence over ethnic or racial background." James Jankowski, *Islamic Views of Ethnicity and Race- Bibliography*, J. RANK SCI. & PHILOSOPHY, <http://www.science.jrank.org/pages/7674/Islamic-Views-Ethnicity-Race.html#ixzz4RAID6GTI> (last visited Jan. 16, 2017).

³⁸ *Nation of Islam*, Southern Poverty L. Ctr., <http://www.splcenter.org/fighting-hate/extremist-files/group/nation-islam> (last visited Jan. 16, 2017).

³⁹ Religious News Service, *Muslims See Contrasts with Nation of Islam Tents of Farrakhan's Group Have Historically Different From Mainstream Islam's. Publicity of Upcoming Million Man March Accents Distinctions.*, L.A. TIMES (Oct. 14, 1995), available at http://www.articles.latimes.com/1995-10-14/local/me-56851_1_mainstream-islam.

⁴⁰ Id.

⁴¹ Edward E. Curtis IV, *BLACK MUSLIM RELIGION IN THE NATION OF ISLAM, 1960-1975* 121 (2006).

⁴² Id.

The NOI's separationist ideology included the formation of a separate moral code for its followers. Abortion and contraception fell outside of this code and, to the NOI, were racist attacks used by the white majority against the Black race.⁴³ Speaking to Dominican college students, the current leader Luis Farrakhan remarked that, "Once you get pregnant, this womb of yours, sisters, is sacred. That's where God operates, in your womb . . . the next scientist to overcome disease, the next leader to lead the people to their destiny will come from your womb . . . so the protection of your womb is critical . . ." ⁴⁴

Farrakhan's remarks illuminate the elevated status belonging to that of unborn Black fetuses. The assumption that the Blackwoman could only make the assumedly male "next leader" or "scientist to overcome disease" speaks to the misogynoir underlying Farrakhan's treatment of Blackwomen. He argues that God, the most supreme being in NOI theology, operates inside the womb of pregnant Blackwomen, suggesting that those same Blackwomen are not good enough to be the great leaders or scientists for their own communities. Farrakhan's remarks are following in Elijah Muhammad's teaching that Blackwomen's bodies are the "field" of the nation, and were commonly represented in cartoons in *Muhammad Speaks*, the NOI paper.⁴⁵

The NOI leader's remarks also rely heavily on the mammy and jezebel stereotypes of Blackwomen. He appeals to the possibility of future success for the current fetus, in hopes that these possibilities will be enough to convince Blackwomen not to abort. During the twentieth anniversary of the Million Man March in 2015 Farrakhan preached,

⁴³ Donald T. Critchlow, *INTENDED CONSEQUENCES: BIRTH CONTROL, ABORTION, AND THE FEDERAL GOVERNMENT IN MODERN AMERICA* 142 (1999).

⁴⁴ *Nation of Islam Leader Warns Against Abortion*, DOMINICA NEWS ONLINE (Dec.5, 2012, 7:39AM), <http://www.dominicanewsonline.com/news/homepage/news/muslim-leader-warns-students-against-abortion>.

⁴⁵ Curtis, *supra* note 41. On the other hand, some Blackwomen found the reverence for their reproductive capacities comforting. One member, Lorraine Muhammad explained,

The value that the Nation put on women, I haven't found that anywhere else. The minister talks about the value of the woman and the value of your womb and to hear that come from a man—it's one thing to hear that from a woman but to hear that from a man—is different. There is continual upliftment. Sometimes you find it hard to believe how valuable you are. It's overwhelming to believe how powerful we are as individuals.

Dawn-Marie Gibson & Jamilah Kari, *WOMEN OF THE NATION: BETWEEN BLACK PROTEST AND SUNNI ISLAM* 139 (2014).

Now it is your body. You can do with it as you please, but it would be so tragic if the next Sitting Bull⁴⁶ was aborted . . . It would be tragic, if the next Malcolm X or Martin Luther King or Moses or Abraham or Jesus was flushed away. You don't know who your child is going to be.⁴⁷

Farrakhan's rhetoric first offers the choice of abortion, painted as a selfish act, then appeals to the self-sacrificing mammy to persuade her to give birth instead. He also assumes that the fetuses in jeopardy of termination could be great and righteous leaders, on the converse these fetuses could also be the next Yakub.⁴⁸ This possibility isn't discussed because Farrakhan and his believers would rather persuade women towards birth instead of providing them information and agency to choose their own pregnancy outcomes. Instead of believing that a pregnant Blackwoman could herself become the next savior, Farrakhan transfers all of his hopes for the Black race to her presumably male fetus. By sidestepping the wealth of potential that is Blackwomen, even those who have unplanned pregnancies and abortions, Farrakhan is further relying on misogynoir to pressure women to conform to his anti-choice ideals.

Many of the past Black Liberation movements have also fueled the abortion and contraception as Black genocide myth. The Black Panthers, the Pan-African Movement, and some in the Civil Rights movement all aligned themselves with anti-choice rhetoric aimed at Blackwomen and their reproductive capabilities at some point or another.⁴⁹ One of the first leaders to do so was Marcus Garvey. His Universal Negro Improvement Association (UNIA) pushed separationist policies while linking people of the African diaspora with countries and peoples of Africa.⁵⁰ Garvey aimed to end both imperialism in Africa as well as the racism faced by Black people in the US and the Caribbean. By utilizing eco-

⁴⁶ Sitting Bull was a Hukpapa Lakota Chief who united all the Lakota tribes in a struggle for survival in the Great Plains against American military power and manifest destiny. West Film Project & WETA, *New Perspectives on the West*, PBS (2001), http://www.pbs.org/weta/thewest/people/s_z/sittingbull.htm.

⁴⁷ Penny Starr, *Farrakhan on Abortion: 'It Would Be So Tragic If the Next' MLK or Jesus 'Was Flushed Away'*, CNS NEWS (Oct. 12, 2015 2:39 PM), <http://www.cnsnews.com/news/article/penny-starr/farrakhan-abortion-it-would-be-so-tragic-if-next-mlk-or-jesus-was-flushed>.

⁴⁸ In NOI theology Yakub is the father of the devil and the evil scientist responsible for creating the white race through inbreeding and infanticide. Eric Pement, *Luis Farrakhan and the Nation of Islam: Part Two*, 26 CORNERSTONE 32–36 (1997).

⁴⁹ See Caron, *supra* note 8, at 546.

⁵⁰ Marcus Garvey, HISTORY (2009), <http://www.history.com/topics/black-history/marcus-garvey>.

conomic measures, like his newspaper, *Negro World*, and his own shipping company, the Black Star Line, Garvey inspired and led the way for later Black Nationalism movements to follow in his footsteps.⁵¹ In 1934, Marcus Garvey voiced his support for a floor resolution banning the use of all birth control for UNIA members at the organization's 1934 convention in Kingston, Jamaica.⁵²

American born leaders and organizations also shared Garvey's anti-contraception and anti-abortion position. The National Urban League's (NUL) mission is to garner civil rights by focusing on economic empowerment of the Black community.⁵³ Whitney Young, the then leader of the NUL, revoked the organizations support of contraception in 1962 amid fears of Black genocide conspiracies.⁵⁴ Several National Association for the Advancement of Colored People (NAACP) chapters followed suit withdrawing any support for contraception access in Black communities.⁵⁵

One Florida NAACP chapter leader, Martin Davies, took the ban further and advocated for an increase in the Black population "[o]ur women need to produce more babies, not less . . . and until we compromise 30 to 35 percent of the population, we won't really be able to affect the power structure in this country."⁵⁶ This strategy conflated population, or the amount of Black people in the country, to the assumed political power of that group. Oddly enough, women, who comprise 51 percent of the general population,⁵⁷ hold only 20 percent of congressional seats.⁵⁸ The population to power conflation fails to account for discrimination,

⁵¹ Garvey was eventually deported back to Jamaica in 1927. Id.

⁵² Marcus Garvey, *MARCUS GARVEY: LIFE AND LESSONS: A CENTENNIAL COMPANION TO THE MARCUS GARVEY AND UNIVERSAL NEGRO IMPROVEMENT ASSOCIATION PAPERS* 441 (Robert A. Hill & Barbara Blair eds., 1998).

⁵³ Who We Are, NAT'L URBAN LEAGUE, <http://www.nul.iamempowered.com/who-we-are> (last visited Jan. 16, 2017).

⁵⁴ Caron, *supra* note 8, at 546.

⁵⁵ Id.

⁵⁶ Loretta J. Ross, *African-American Women and Abortion*, in *ABORTION WARS: A HALF-CENTURY OF STRUGGLE, 1950–2000*, at 180 (Rickie Solinger ed., 1st ed., 1998), reprinted in Loretta J. Ross, *African-American Women and Abortion*, TRUST BLACK WOMEN, <http://www.trustblack-women.org/2011-05-10-03-28-12/publications-a-articles/african-americans-and-abortion-articles/31-african-american-women-and-abortion> (last visited Jan. 7, 2017).

⁵⁷ *Quick Facts: United States*, U.S. CENSUS, <http://www.census.gov/quickfacts/table/PST045216/00> (last visited Jan. 7, 2017).

⁵⁸ Ctr. for American Women & Politics, *Women in U.S. Congress 2015*, RUTGERS EAGLETON INST. OF POLITICS (2016), <http://www.cawp.rutgers.edu/women-us-congress-2015>.

economic power differentials, or the ways in which white supremacy continues to uphold its power structures, despite progressive change.⁵⁹ For example, “regressive tax policies, declining wages and benefits, cuts in social spending, and concentration of toxic waste dumps in areas with large minority and poor populations” continue to play a role in black oppression.⁶⁰

Reverend Jesse Jackson, founder of People United to Save Humanity (PUSH), and a well-known civil rights leader has shifted his stance on abortion throughout his long presence in the public eye. In 1973, he stated “[a]bortion is genocide,”⁶¹ but continued to support contraceptive measures to avoid pregnancy. The Baptist reverend then went on to endorse the Hyde Amendment which prohibits Medicaid funding for abortions.⁶² He compared the privacy rights evoked in *Roe v. Wade* as “the premise of slavery. You could not protest the existence or treatment of slaves on the plantation because that was private and therefore outside of your right to be concerned.”⁶³

The Reverend placed fetuses on the same moral pedestal as enslaved humans. This rhetoric is an attempt to shame pro-choice persons by reminding them of the harms of American slavery and its then legal foundations. Further, it places Blackwomen in the same moral standing as slave and plantation owners. Like the rhetoric of the NOI, Blackwomen’s uteruses are being likened to fertile growing grounds for

⁵⁹ For example, consider the formal “emancipation” of the Black slave population nearly immediately followed by the Black codes and the peonage system. See generally Michele Alexander, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS* (2012) 4.

⁶⁰ Doris Witt, *What (N)ever Happened to Aunt Jemima: Eating Disorders, Fetal Rights, and Black Female Appetite* in CONTEMPORARY AMERICAN CULTURE, IN *SKIN DEEP, SPIRIT STRONG THE BLACK FEMALE BODY IN AMERICAN CULTURE* 252 (Kimberly Wallace Sanders ed. 2002).

⁶¹ Robert E. Johnson, *Legal Abortion: Is it Genocide or Blessing in Disguise?*, 43 JET MAG., Mar. 22, 1973, at 15, available at <http://www.books.google.com/books?id=5bEDAAAAMBAJ&printsec=frontcover&hl=En#v=onepage&q&f=false>.

⁶² “I must oppose the use of federal funds for a policy of killing infants You don’t stop reproducing or procreating life at its best. For who knows that the cure for cancer won’t come out of the mind of some black child?” Patrick Buchanan, *Still They Don’t Understand Jackson*, THE SOUTHEAST MISSOURIAN, July 14, 1988, at 10A, available at <http://www.news.google.com/newspapers?id=m8FQAAAIBAJ&sjid=PccMAAAAIBAJ&pg=1045,1596334&d-q=jesse+jackson+federal+policy+of+killing&hl=en>. See The Beliefs of Jesse Jackson, JESSE JACKSON, <http://www.jessejackson.net/jesse-jackson-religion-2> (last visited Jan. 16, 2017).

⁶³ Jesse Jackson, *How We Respect Life Is the Over-riding Moral Issue*, RIGHT TO LIFE NEWS (Jan. 1977), reprinted in *Jesse Jackson, How We Respect Life Is the Over-Riding Moral Issue, No Violence Period*, <http://www.groups.csail.mit.edu/mac/users/rauch/nvp/consistent/jackson.html> (last visited Jan. 7, 2017)

the Black race and our liberation. By paralleling slavery and abortion, Reverend Jesse James places Blackwomen's abortions in opposition to, or at least as an obstacle to, Black liberation. He also racializes the abortion debate by insinuating that those who are pro-choice are no better than those who didn't vehemently oppose American slavery. This insinuation challenges any Blackwomen choosing abortion by likening it to harms done to enslaved Blackwomen, men, and children. Jesse Jackson would later shift his views to being pro-choice during his 1984 and 1988 bids for the Democratic Party presidential nomination.⁶⁴

The Black Panther Party (BPP) was a socialist organization fighting for the liberation of all Black and oppressed peoples. Both of its founders were Black men, but a majority of its members were Blackwomen.⁶⁵ The *Black Panther Party Paper* was used to widely disperse the parties' ideals and programs throughout the United States, and published many articles condemning the use of any birth control, but particularly the practice of abortion.⁶⁶ One article titled "Birth Control" states, "no pill, loop, or treatment short of mass sterilization will restrict our growth . . . each child born will be one more revolutionary that the power structure will have to try to deal with."⁶⁷ This is an example of a militant Black organization telling Blackwomen that their reproductive capabilities are divorced from their personal wants and needs, belonging instead to the Black community and the movement.⁶⁸

Equating the unborn to future fighters, revolutionaries, and warriors personifies the fetus to a highly revered status. Another Black Panther Party article questioned the motives of Blackwomen directly, asking "Why do you feel the need for sexual freedom . . . ? Why are you drowning in bills? I'll tell you why, because of the ways of racism. They

⁶⁴ *Rev. Jesse Jackson's Abortion Flip Flop Timeline*, SAYNSUMTHN'S BLOG (Mar. 10, 2011, 5:19 AM), <http://www.saynsumthn.wordpress.com/2011/03/10/rev-jesse-jacksons-abortion-flip-flop-timeline>.

⁶⁵ Nicole Martin, *Women Key in Shaping Black Panther Party: Historian Reveals How African American Women Transformed Gender Roles in the Black Power Movement*, CLAYMAN INST. FOR GENDER RES. (Jan. 6, 2014), <http://www.gender.stanford.edu/news/2014/women-key-shaping-black-panther-party>.

⁶⁶ Jennifer Nelson, *WOMEN OF COLOR AND THE REPRODUCTIVE RIGHTS MOVEMENT* 105, (2003).

⁶⁷ *Id.*

⁶⁸ Blackwomen contributed to the Black Panther as editors (for example, Elaine Brown) and contributed artwork and illustrations for the back page. *Peter Walton, Brown, Elaine (1943)*, BLACKPAST, <http://www.blackpast.org/aaw/brown-elaine-1943> (last visited Jan. 7, 2017). See Martin, *supra* note 65.

are planning mass extermination of people they consider dispensable.”⁶⁹ This author attempts to link white racism with Blackwomen’s attempt to exercise bodily autonomy and sexual liberation. He then takes it a step further by linking this sexual liberation to poverty and lays the blame for this social condition at the feet of Blackwomen duped by the white racists. Thus, the Blackwoman is reduced to a breeder, a creator of revolutionaries and fighters, instead of being recognized as a revolutionary herself.

These gender distinctions are not unique to the Black Panther Party, but were particularly pronounced due to the hyper masculine ideal of the Black revolutionary.⁷⁰ The Black Panther Party advocated an ideal of Black men that challenged their social standing within mainstream white society. Early Panther recruitment literature focused on making Black men the “protectors of women and children” and the “. . . cream of Black manhood . . . ”⁷¹ These roles were steps to regain Black manhood which the Party’s founders believed had been taken from them by racism.⁷² This patronizing view incorrectly placed Blackwomen outside of the purview of protectors of themselves, ignoring their contributions to the civil rights movements, as well as the violence that they faced by Black men.

Elaine Brown, the only female chairman of the BPP and previous editor of the Black Panther Party Paper, helped shift the Party’s platform on contraception during her leadership from 1974–1977. During her tenure, the BPP became outspoken birth control and abortion advocates, but continued to object to any government enforced family planning methods targeting the Black community.⁷³

⁶⁹ Critchlow, *supra* note 43, at 143.

⁷⁰ See generally Samuel Josephs, *Whose Revolution Is This? Gender’s Divisive Role in the Black Panther Party*, 9 *Geo. J. GENDER & L.* 403,405, 408–09 (2008) (arguing that despite women making up a majority of the general membership the party was originally conceptualized “on reconstructing images of black men in particular. The BPP would thus be a man’s party, and recruitment efforts would focus on men”).

⁷¹ *Id.*

⁷² Tracey A. Matthews, “*No One Ever Asks What a Man’s Role in the Revolution Is*”: *Gender Politics and Leadership in the Black Panther Party, 1966–71*, in *SISTERS IN THE STRUGGLE: AFRICAN-AMERICAN WOMEN IN THE CIVIL RIGHTS- BLACK POWER MOVEMENT*, 230–56 (Bettye Collier-Thomas & V.P. Franklin eds., 2001).

⁷³ *American Black Nationalist on Population Control*, Family Planning, STANFORD, (Nov. 20, 2008), <http://stanford.edu/group/womenscourage/cgi-bin/blogs/familyplanning/2008/11/20/american-black-nationalists-on-population-control>.

III. THE HERSTORY⁷⁴ OF BLACKWOMEN AND REPRODUCTIVE CONTROL

Blackwomen have been subject to coercive reproductive control since their forced arrival in the United States.⁷⁵ Many of the proponents of the abortion as Black genocide based their distrust for abortions on this long herstory faced by Blackwomen. However, instead of empowering individual Blackwomen to make the best reproductive decisions for themselves, they instead advocate for blanket bans on abortions in a misguided restorative attempt to make up for the Black lives lost during the middle passage and slavery.⁷⁶ The use of reproductive control by individual slave holders, the American government, and healthcare institutions has instilled a well-deserved skepticism in the Black community. However, “Black women must be permitted to exercise their judgments without fear of reprisals from patriarchal, bourgeois, and culturally repressive elements within the black community.”⁷⁷

A. *Blackwomen in Bondage*

For Blackwomen in bondage, their pregnancy became a middle passage of sorts. Through their reproduction they brought another being into bondage. Blackwomen loved their children, but also knew that by having them they condemned them to slavery and simultaneously increased their master’s wealth. The legal status of children born to enslaved Blackwomen were automatically slaves regardless of the paternity and status of their fathers. This matrilineal inheritance of legal status was in direct opposition to the prevailing patriarchal passage of property and title in favor at the time.⁷⁸ The matrilineal inheritance of status cre-

⁷⁴ I use the term “herstory” instead of the common history to shift the focus when relaying the abuses faced by enslaved Africans. Instead of making the experiences of women and girls afterthoughts, I start by focusing on them. The intersections of being Black and female made and continue to make their lives vastly different from the male lives most commonly studied. Furthermore, by using herstory, I attempt to correctly place Blackwomen as active participants in their stories instead of portraying them as passive actors that simply survive their oppressions.

⁷⁵ This is not to say only Blackwomen and girls had their reproduction controlled by white people. Enslaved Black men were also forced to breed or were castrated at their masters’ will. See Dorothy Roberts, *KILLING THE BLACK BODY: RACE, REPRODUCTION, AND THE MEANING OF LIBERTY* 104–149 (1997).

⁷⁶ Dick Gregory, a popular political activist, expressed his opposition to abortion rights this way: “My answer to genocide, quite simply, is eight Black kids and another on the way.” Thomas B. Littlewood, *THE POLITICS OF POPULATION CONTROL* 18 (1977).

⁷⁷ Regina Austin, *Sapphire Bound!*, in *CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT*, 426, 433 (Kimerblé Crenshaw et al. eds., 1995).

⁷⁸ “I consider the labor of a breeding woman as no object, and that a child raised every 2

ated an economic incentive for slave owners to increase the reproduction of slave women.⁷⁹ There were numerous strategies to ensure and even increase the births of new slaves in the United States. One measure was to forbid their slave men from marrying women “abroad” or at another plantation in order to avoid “so much seed spewed on the ground” and the children of their slave belonging to the mother’s owner.⁸⁰

Some slave-owners also practiced slave breeding.⁸¹ Both male “studs” and female “breeders” slaves were considered “prime stock” and were used to bear offspring that would be particularly suited for grueling labor.⁸² The agricultural like breeding was not the only forcible means to increase a master’s slave population. In addition, masters and overseers often raped female slaves, and due to the matrilineal inheritance of status, these children were legally slaves and the master’s property.⁸³ This created an economic benefit to the rape and sexual exploitation of Blackwomen in slavery—a gendered form of racial oppression. By 1860, 10 percent of the slave population was classified as “mulatto” showing the prevalence of interracial sexual encounters, many of which occurred in the context of rape and coercion of Black women.⁸⁴ Enslaved Black-

years is of more profit than the crop of the best laboring man.” Wilma A. Dunaway, *THE AFRICAN AMERICAN FAMILY IN SLAVERY AND EMANCIPATION* 114 (2003) (quoting Thomas Jefferson, Blue Ridge Virginia Planter).

⁷⁹ In 1662, the Virginia colonial assembly provided that “children got by an Englishman upon a Negro woman shall be bond or free according to the condition of the mother . . .” In reversing the usual common law presumption that the status of the child was determined by the father, the rule facilitated the reproduction of one’s own labor force. Because the children of Blackwomen assumed the status of their mother, slaves were bred through Blackwomen’s bodies. The economic significance of this form of exploitation of female slaves should not be underestimated. Despite Thomas Jefferson’s belief that slavery should be abolished, like other slaveholders, he viewed slaves as economic assets, noting that their value could be realized more efficiently from breeding than from labor. Cheryl I. Harris, *Whiteness as Property*, 106 *Harv. L.Rev.* n.1 at 1719–20.

⁸⁰ Eugene D. Genovese, *ROLL JORDAN ROLL: THE WORLD THE SLAVES MADE* 473 (1976). See John W. Blassingame, *THE SLAVE COMMUNITY: PLANTATION LIFE IN THE ANTEBELLUM SOUTH* 86 (1972).

⁸¹ Dorothy Roberts, *KILLING THE BLACK BODY: RACE, REPRODUCTION, AND THE MEANING OF LIBERTY* at 27.

⁸² *Id.* “Another aspect of reproductive control made the common inducement of slave childbearing even more despicable. Some slaveowners also practiced slave-breeding by compelling slaves they considered ‘prime stock’ to mate in the hopes of producing children especially suited for labor or sale.” *Id.*

⁸³ Blassingame, *supra* note 80, at 76. “During slavery, it seemed lak yo chilln b’long to ev’ybody but you. –Katie Johnson, enslaved Appalachian mother.” *Id.* at 94.

⁸⁴ “[O]nly about 13 percent of the Afro-American population of 1860 had white ancestry,

women had the status of property, so raping your own slave was not a recognizable crime.⁸⁵

Although not uniformly practiced, most masters used incentivizing practices in hopes to increase the fertility of their Blackwomen slaves.⁸⁶ The incentives ranged from small pigs, to extra rations, or calico dresses and ribbons for their hair.⁸⁷ Pregnant Blackwomen in bondage also sometimes received lighter workloads towards the very end of their pregnancy and when nursing.⁸⁸ These child rearing incentives depended solely on the temperament of her master and could just as easily be taken away if he chose.⁸⁹ On the other hand, Blackwomen who failed to reproduce were less valuable and faced cruel punishment by masters who wanted, or were financially counting on, them birthing more slaves.

Some enslaved Blackwomen chose to avoid pregnancy through abstinence, medicines, or termination of their pregnancies through abortifacients.⁹⁰ Some methods included “drinking concoctions such as gunpowder mixed with milk, swallowing nine pellets of birdshot, consuming a teaspoon of turpentine for nine days following intercourse, and using a mixture of tea from cocklebur roots and bluestone as a douche.”⁹¹ By

according to the census reports, although some scholars have estimated 20 percent or more. According to the official statistics, the percentage of “mulattoes” (as all with some white ancestry came to be called) . . .” Genovese, *supra* note 80, at 414 (quoting W. E. Burghardt Du Bois, *BLACK RECONSTRUCTION IN AMERICA, 1860–1880*, 3–4 (1974); see also Robert William Fogel & Stanley L. Engerman, *TIME ON THE CROSS: THE ECONOMICS OF AMERICAN SLAVERY* 133 (1995) (estimating that “the share of negro children fathered by whites on slave plantations probably averaged between 1 and 2 percent”).

⁸⁵ “Thus, a female slave did not have social or legal protection from rape. Beyond the implausible option of physically defending herself, she had no way to deny her owner from abusing her body and no redress after the abuse occurred.” Pamela D. Bridgewater, *Ain’t I a Slave: Slavery Reproductive Abuse, and Reparations*, 14 *UCLA WOMEN’S. L.J.* 89, 117 (2005).

⁸⁶ See generally, Dorothy Roberts, *KILLING THE BLACK BODY: RACE, REPRODUCTION, AND THE MEANING OF LIBERTY* 104–149 (1997).

⁸⁷ *Id.*

⁸⁸ “Particularly humane or closely calculating masters released their slave women from field work for a full month before and after childbirth, but many fell short of this model. Normally the women would have their tasks lightened or cut in half during the last month of pregnancy and then would not be expected back at work until a month after delivery.” Genovese, *supra* note 80, at 497.

⁸⁹ Jennifer Hallam, *The Slave Experience: Men, Women, & Gender*, PBS (2004), <http://www.pbs.org/wnet/slavery/experience/gender/history.html>. See Blassingame, *supra* note 80, at 179.

⁹⁰ Angela Y. Davis, *Women, Race and Class* 3, (1981); see also Genovese, *supra* note 80, at 504–05.

⁹¹ Glenda Sullivan, *Plantation Medicine and Health Care in the Old South*, 10 *LEGACY* 17, 27

using these, and abortive methods such as cotton plant root tea, Black-women attempted to control their own reproduction regardless of their owner's wishes.⁹²

These acts of resistance were in direct opposition to the economic powerhouse of American slavery, but did not occur often enough to lower the high birth and reproduction rates of the slave population.⁹³ By attempting to control their fertility, and the lives of their children, Black women presented a unique and gendered resistance to slavery with varying results.

Some Black women even resorted to infanticide in order to keep their children from the harms of slavery. One such Blackwoman, Margaret Garner attempted freedom, and then attempted to kill her children rather than condemn them to a life of slavery.⁹⁴ Margaret attempted to escape her Kentucky plantation with her children in tow using the Underground Railroad. Unfortunately, her physical escape could not secure her freedom; the Fugitive Slave Act of 1850 protected slave owner's property rights even in free territories.⁹⁵ Margaret was discovered in a safe house and attempted to kill all four of her children, but was only able to kill her second youngest daughter, Mary.⁹⁶ In a highly publicized trial, Margaret's abolitionist defense attorney reasoned that her and her family's trip to the free territory of Cincinnati entitled them to freedom. This argument failed, and under the Fugitive Slave Act, Mary, her husband, and her surviving children were returned to her master.⁹⁷ Margaret would live as a slave until 1858 when she died of typhoid fever.⁹⁸

Although slaves were legally property, slaves continued to love and seek recognition of their love through marriages and families.⁹⁹ Some

(2010).

⁹² "To abort unwanted pregnancies, slave women sometimes used the cotton plant, the staple crop of the South. The root of the cotton plant could be made into a tea or chewed." *Id.*

⁹³ Genovese, *supra* note 80, at 497.

⁹⁴ *Id.*

⁹⁵ "Fugitive Slave Acts," A&E Networks, <http://www.history.com/topics/black-history/fugitive-slave-acts> (last visited Feb. 28, 2017).

⁹⁶ Casey Nichols, *Margaret Garner Incident (1856)*, BLACKPAST, <http://www.blackpast.org/aah/margaret-garner-incident-1856> (last visited Jan. 16, 2017).

⁹⁷ *d.*; see also Janell Hobson, *Black Herstory Haunted by Margaret Garner*, MS. MAGAZINE BLOG (Feb. 18, 2012), <http://msmagazine.com/blog/2012/02/18/black-herstory-haunted-by-margaret-garner>.

⁹⁸ Nichols, *supra* note 96.

⁹⁹ Genovese, *supra* note 80, at 497.

slaves married abroad¹⁰⁰, others within the plantation, but none had marriages with any legal standing. These relationships were created through spiritual leaders and common rituals like “jumping the broom.”¹⁰¹ Because the master had to consent to the forming of these families, he had the power to separate them at-will. The commercial enterprise of slavery required slave families, to be separated at their master’s will, Blackwomen and their children.¹⁰²

In *Banks Administration v. Marksberry*, the judicial system confirmed that masters owned a divisible property interest in the offspring of their Blackwomen slaves.¹⁰³ A deed executed in the case granted Pen, a slave woman, to one of Marksberry’s heirs, and her “increase” or children to another. The court held that the plaintiff was unable to claim Pen’s issue or children, because this property interest had already vested in plaintiff’s father.¹⁰⁴ Pen was reduced to any other piece of property that produces something, her children likened to crops, wool, and other future goods. *Banks Administration* illustrates the lack of control that Blackwomen had over their own bodies, children, and relationships due to the unchecked, although often resisted, power of the slaveholder.¹⁰⁵

The role of Blackwomen as mothers was also limited by the will of her master. Typically the early years of slave children were spent with their parents (if they were together) and their mother was usually allowed around four weeks to recover from birth before returning to normal labor.¹⁰⁶ Her children would then be left in the care with older slaves who would care for, and oversee older children caring for smaller infants and children.¹⁰⁷ The forced labor and reproduction of Black mothers led to the creation of extended communal systems, the likes of which are still in place today.¹⁰⁸ Unlike the communal system that helped to raise

¹⁰⁰ Hallam, *supra* note 89.

¹⁰¹ Roberts, *supra* note 14, at 52. Some descendants of enslaved Black people still continue this tradition although “. . . it is quite ironic in light of its true significance as a ritual born from desperation in the face of both societal and legal prohibitions.” Darlene Goring, *The History of Slave Marriage in the United States*, 39 *J. Marshall L. Rev.* 299, 310 (2006).

¹⁰² “The number of slave marriages which were ended by force or sale has been approximated to be one in every six or seven.” Herbert Gutman, *THE BLACK FAMILY IN SLAVERY AND FREEDOM 1750–1925* (1976).

¹⁰³ *Banks’ Adm’r v. Marksberry*, 13 *Litt.* 275, 275 (1823)

¹⁰⁴ *Id.*

¹⁰⁵ Roberts, *supra* note 14, at 29.

¹⁰⁶ See Blassingame, *supra* note 80, at 181; Gutman, *supra* note 102, at 203.

¹⁰⁷ Blassingame, *supra* note 80, at 181.

¹⁰⁸ Sociologists have also studied the extended family experience in African-American

and nurture Black children born into bondage, the communal system of today attempts to pressure and shame Blackwomen for exercising the very same reproductive rights that were stripped from them in bondage.

B. *Eugenics and the Blackwoman's Body*

The term “eugenics” was first coined by English Catholic Frances Galton in 1883.¹⁰⁹ After studying the interrelatedness of the British royal class he concluded that they were the ruling class because of their superior heredity.¹¹⁰ He first proposed a selective breeding program in the 1860s to further increase those with “preordained” leadership potential. Due to industrialization and what White Americans believed to be the threat to “American Stock,” Galton’s breeding ideals quickly took hold across the Atlantic in the United States.¹¹¹

Many of the first proponents of eugenics were American pseudoscientists, despite history’s attempt to paint Nazi Germany as the beginning and end of eugenic experiments.¹¹² The Nazis looked to the compulsory sterilization law of California and modeled its own eugenicist program after it.¹¹³ From 1909 to 1963, California allowed 20,000 wards of the state

communities because of the unique history of Africans in America, who have suffered through slavery, Jim Crow, de facto and de jure segregation, and discrimination in housing, employment, and education. These studies indicate that the complex family composition of the child-oriented extended family system in the Black communities in the United States significantly contributed to the survival and advancement of the children despite the social and political obstacles placed before them. Gilbert A. Holmes, *The Extended Family System in the Black Community: A Child-Centered Model for Adoption Policy*, 68 TEMP. L. REV. 1649, 1660 (1995) (internal citations omitted).

¹⁰⁹ Steven Selden, *INHERITING SHAME: THE STORY OF EUGENICS AND RACISM IN AMERICA*, 2 (1999).

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² See Facing History and Ourselves Found., Inc., *RACE AND MEMBERSHIP IN AMERICAN HISTORY: THE EUGENICS MOVEMENT*, (4th ed., 2002) (describing a German chapter of the Society for Racial Hygiene that distributed a brochure that lauded “the dedication with which Americans sponsor research in the field of racial hygiene and with which they translate theoretical knowledge into practice”).

¹¹³ “‘Germany used California’s program as its chief example that this was a working, successful policy,’ Cogdell said. ‘They modeled their law on California’s law.’” Elizabeth Cohen & John Bonifield, *California’s Dark Legacy of Forced Sterilizations*, CNN (Mar. 15, 2012), <http://www.cnn.com/2012/03/15/health/california-forced-sterilizations>. The law granted the medical superintendents of asylums and prisons the authority to “asexualize” a patient or inmate if such action would improve his or her “physical mental, or moral condition.” Alexandra Minna Stern, *Sterilized in the Name of Public Health: Race, Immigration, and Reproductive Control in Modern California*, 95 AM. J. PUB. HEALTH 1128 (2005), <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1449330/pdf/0951128.pdf>.

(either imprisoned or institutionalized) to be sterilized without their consent and without any appeal process.¹¹⁴ Sterilization victims have yet to receive any compensation or legal redress in California, although other states like North Carolina have considered compensation funds for victims.¹¹⁵ Supporters of the eugenics movement dreamt of a future where “unfit” and “undesirable” classes of people would stop reproducing and eventually perish, leaving only those that they believed to be best suited for survival and success.¹¹⁶

American proponents of eugenics were anxious about “dependency, delinquency, and pauperism” occurring in the fast growing urban centers of the late 19th and early 20th century America. American Eugenicists misapplied the plant breeding findings of Moravian monk Gregor Mendel and argued that moral, intellectual, and social qualities could be explained by heredity.¹¹⁷ Despite the fact that his studies focused solely on plants and their physical characteristics, American eugenicist used Mendelian methods in order to shift social betterment thinking away from societal improvement and towards a finer focus on genetics and hereditary traits.¹¹⁸

Charles Darwin, an English scientist, studied plant and animal species and is known as the father of “natural selection.”¹¹⁹ His theory of evolution published in 1859 argued that the most well suited organism for an environment will be more likely to survive and live long enough to reproduce and pass down its traits.¹²⁰ On the other hand, organisms with less suitable characteristics would be less likely to survive, and would eventually perish along with their ill fitted traits.¹²¹ Darwin believed that this was the natural generational process of plants and animals and his theory was quickly misapplied to humankind.¹²²

One of Darwin’s fellow countrymen, Herbert Spencer, misapplied Darwin’s findings not only to human beings but also to modern society

¹¹⁴ Cohen and Bonifield, *supra* note 113.

¹¹⁵ *Id.*

¹¹⁶ Clyde Spillenger, *Reproduction and Medical Interventionism: An Historical Comment*, 13 *NOVA L. REV.* 385, 387 (1989).

¹¹⁷ Selden, *supra* note 109.

¹¹⁸ *Id.*

¹¹⁹ Dennis O’Neil, *Darwin and Natural Selection*, PALOMAR COLLEGE, http://www.anthro.palomar.edu/evolve/evolve_2.htm (last visited Feb. 13, 2017).

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² Selden, *supra* note 109.

in 1864. He used the term “survival of the fittest” popularizing a doctrine that came to be known as “social Darwinism” which posits that the same evolutionary process that happens among animals in the wild also happens with different types of people in society.¹²³ Spencer argued that the fate of the rich and conversely the poor in a laissez faire capitalistic society was natural.¹²⁴

The German interpretation of social Darwinism culminated in a romantic history about Germanic people and posited that evolution made them a supreme race. German biologist Ernst Haeckel divided and then ranked all races of people in his book *The Riddle of the Universe*, with Aryans at the top and Africans and Jews at the bottom of the hierarchy.¹²⁵ The term “fittest” became synonymous with strength, and United States and English thinkers believed this strength to be evident in the class divide between the rich and poor in capitalistic societies.¹²⁶ They asserted that the strongest would show themselves by surviving and thriving in this society while nature would take its course by weeding out the weakest members who they believed to be African and Jewish.¹²⁷

William Graham Sumner, an American biologist and Yale professor also believed that any assistance to the poor would constitute an “unquestionable injury” by interfering with natural selection and the elimination of the weak.¹²⁸ He believed that every person has a personal and social responsibility to take care of himself or herself. Further he reasoned that the man that could adequately take care of himself, a wife, and dependents is fit to have a family. He argued that if society was simply left alone, a sound and natural social order could be achieved.¹²⁹

Social Darwinism was understandably popular with the elite of American society, lending credence to the idea that their privileged position was deserved and natural. Religious leaders as well as Supreme

¹²³ Herbert Spencer, PBS, <http://www.pbs.org/wgbh/amex/carnegie/peopleevents/pande03.html> (last visited Feb. 13, 2017).

¹²⁴ *Id.*

¹²⁵ Breeding Society’s Fittest, Facing History and Ourselves, <https://www.facinghistory.org/holocaust-and-human-behavior/chapter-2/breeding-societys-fittest> (last visited Jan. 3, 2016).

¹²⁶ *See, e.g.*, Herbert Spencer, *supra* note 123 (describing Herbert Spencer’s argument that the divide between rich and poor people is natural and the result of natural selection).

¹²⁷ *See, e.g., Id.*

¹²⁸ John Wright, *The Ethics of Economic Rationalism* 126–27 (2003).

¹²⁹ William Graham Sumner, *What Social Classes Owe to Each Other* 11 (1983) (describing the class of “ills that belong to the struggle of existence” as “natural” hardships that humans must face).

Court Justices employed the school of thought in order to justify the individual, class, and racial inequalities in American society.¹³⁰ In 1885, the influential Reverend Josiah Strong wrote that the “wonderful progress” in the U.S. was the result of natural selection. That the “more energetic, restless and courageous men from all parts of Europe have emigrated . . . and have there succeeded best.”¹³¹ He went on to predict “this powerful race will move down upon Mexico, Down upon Central and South America, out upon the islands of the sea, over upon Africa and beyond. And can anyone doubt that the result of this competition of races will be the survival of the fittest?”¹³² Many, including the Supreme Court in *Plessy v. Ferguson*, shared Reverend Strong’s belief in the natural supremacy of the Anglo-Saxon race.¹³³

The widespread acceptance of Social Darwinism can be seen in the 1896 decision in *Plessy*. The African American plaintiff Homer Plessy challenged a Louisiana Law that segregated public transportation. He asserted that his conviction under this law for sitting with white passengers violated his equal protection rights under the Fourteenth Amendment.¹³⁴ Eight justices confirmed the Louisiana conviction citing the principle of “separate but equal” as superseding Plessy’s Fourteenth amendment rights. Writing for the majority, Justice Henry Brown stated “If one race be inferior to the other socially, the Constitution of the United States cannot put them upon the same plane.”¹³⁵ In Harlan’s dissent of the same decision he regarded white Americans as “the superior race.”¹³⁶

The Supreme Court and other Social Darwinism proponents decided that there was a natural social hierarchy and that the law wasn’t supposed to change that order, only reinforce it. The law was, however, used to better enforce that hierarchy through formal segregation known as “Jim Crow” laws.¹³⁷ These laws mandated racial barriers in nearly

¹³⁰ Social Darwinism, ENCYCLOPEDIA BRITANNICA, <http://www.britannica.com/topic/social-Darwinism> (last updated Dec. 11, 2014).

¹³¹ Josiah Strong, OUR COUNTRY: ITS POSSIBLE FUTURE AND ITS PRESENT CRISIS 165 (1885).

¹³² *Id.*

¹³³ See *Plessy v. Ferguson*, 163 U.S. 537, 551 (1896) (describing the U.S. Constitution’s inability to remedy the social inferiority of races in the US).

¹³⁴ *Id.* at 541–52.

¹³⁵ *Id.* at 552.

¹³⁶ *Id.* at 555–56 (Harlan, J., dissenting).

¹³⁷ Dorothy Roberts, KILLING THE BLACK BODY: RACE, REPRODUCTION, AND THE MEANING OF LIBERTY 104–149 (1997) at 7 (emphasizing the importance of reconsidering the “meaning of reproductive liberty to take into account its relationship to racial oppression).

every aspect of American life. Black and white Americans were prohibited from eating, traveling, and sitting together publicly. The “separate but equal” doctrine espoused in *Plessy* cemented the legality of Black subordination while reaffirming genetic racial determinations and coinciding legal and social treatment.

The eugenics movement both in the US and abroad had continued consequences for those deemed “unfit” and lesser in the racial hierarchy. Blackwomen, as the reproducer of the Black race became particularly targeted by social betterment initiatives that utilized negative eugenics. The goal of bettering society by increased breeding of the “fit,” who coincidentally were rich and white, was only to be achieved if the less fit were kept from reproducing, Blackwomen in particular.

1. STERILIZATION

The eugenics movement was in full swing with goals to limit the reproduction of “undesirables” during the early twentieth century.¹³⁸ Sterilization was also used as a punitive and paternalistic measure, particularly for those convicted of sex crimes and those deemed to be financial ‘drains’ on the state.¹³⁹ Black men who were accused of raping white women faced castration during bondage, the Jim Crow Era, and by the prison system after that.¹⁴⁰ Starting in 1907, compulsory sterilization laws were passed in numerous states providing for sterilization of anyone deemed to be a burden on society.¹⁴¹

By the 1927 Supreme Court ruling of *Buck v. Bell*, thirty states had compulsory sterilization laws on the books. The court held that Carrie Buck, a “feeble-minded”¹⁴² rape survivor did not have any equal protection or due process constitutional claims against her forced

¹³⁸ *Id.* at 60.

¹³⁹ *See, e.g.*, Nancy Ordovery, American Eugenics: Race, Queer Anatomy, and the Science of Nationalism 80, 210 (2003) (discussing Nebraska’s 1929 law that required sterilization of inmates convicted of sexual crimes prior to their release).

¹⁴⁰ Judith Kegan Gardner, MASCULINITY STUDIES AND FEMINIST THEORY: NEW DIRECTIONS 314–15 (2013).

¹⁴¹ *See* Dorothy Roberts, KILLING THE BLACK BODY: RACE, REPRODUCTION, AND THE MEANING OF LIBERTY at 306–07 (providing examples of Supreme Court cases in which sterilization was performed on individuals under state control in facilities such as mental institutions or hospitals).

¹⁴² “Labeling a young woman feeble-minded was often an excuse to punish her sexual immorality. Many women were sent to institutions to be sterilized solely because they were promiscuous or had become pregnant out of wedlock.” Roberts, *supra* note 14, at 70.

sterilization.¹⁴³ During the economic depression of 1930's, negative eugenics proponents soon turned their attention away from poor whites and undesirable immigrants and towards Black people who were believed to be a drain on public assistance.¹⁴⁴ While positive eugenics focused on increasing the birth rate of those with desirable qualities (white, upper class), negative eugenics proponents favored lowering the birth rate of those they deemed "unfit" to reproduce.¹⁴⁵ Although sterilization laws began to fall across the nation, largely due to the stigma surrounding eugenics after the Nazi holocaust, widespread sterilization abuse of Black women continued until the late 1970s.¹⁴⁶

The sterilization of Black women most often occurred at the hands of doctors who were paid by the government to provide them with medical care.¹⁴⁷ Teaching hospitals also performed unnecessary hysterectomies for learning purposes and it was a common practice to sterilize Black women in the South without their consent.¹⁴⁸ These procedures came to be known as "Mississippi appendectomies" and Fannie Lou Hamer remarked that 60 percent of Black women in Sunflower County had been sterilized after childbirth.¹⁴⁹

In *Relf v. Weinberger*, two poor Black minors were sterilized by funds provided by the U.S. Department of Health, Education, and Welfare. The victims were Mary Alice and Minnie Relf who were fourteen and twelve respectively; records indicate that both girls were mentally impaired.¹⁵⁰ Their mother believed that she was consenting to the girls receiving birth control shots by the government agency and signed an X on the paper. The girls were instead sterilized like the other 100,000 to 150,000 poor people that had been forcefully sterilized by the federally

¹⁴³ Id. at 69.

¹⁴⁴ Id. at 70.

¹⁴⁵ Ordovery, *supra* note 139, at 140.

¹⁴⁶ Id. at 130–31.

¹⁴⁷ In *Relf v. Weinberger*, "a federal district court found that an estimated 100,000 to 150,000 poor women were sterilized annually under federally-funded programs." Dorothy E. Roberts, *Punishing Drug Addicts Who Have Babies: Women of Color, Equality, and the Right of Privacy*, 104 HARV. L. REV. 1419, 1443 (1991).

¹⁴⁸ See Roberts, *supra* note 14, at 90 (noting that doctors had a medical incentive to perform total hysterectomies which they would be paid \$800 instead of only \$250 for tubal ligations; however, both procedures were forms of sterilization).

¹⁴⁹ Id. at 91 (naming Boston City Hospital as an institution that was found to be performing excessive and medically unnecessary hysterectomies on Black patients).

¹⁵⁰ Case Docket: *Relf v. Weinberger*, S. POVERTY L. CTR., <http://www.splcenter.org/seeking-justice/case-docket/relf-v-weinberger> (last visited Feb. 13, 2017).

funded program.¹⁵¹ Minnie and Mary Alice's seventeen-year-old sister, Katy also received an IUD from the same agency without either parent's consent.¹⁵²

The continued coercion and control of the reproductive capabilities of Blackwomen fuels the myth of abortion as Black genocide. In a *Jet Magazine* article reporting on the forced sterilization of the Relfs the tag line is "Genocide."¹⁵³ Tales like that of the Relfs and Margaret Garner help proponents of this myth paint all Blackwomen as incapable of making their own reproductive choices. Thus, men and pro-Black organizations step in to remove the option of abortion, which they believe Blackwomen will be dangerously fooled into "choosing" to the detriment of the Black race.

IV. THE MYTH OF ABORTION AS BLACK GENOCIDE IN MODERN DAYS

American history provides numerous examples of reproductive control being exerted over Blackwomen. Whether by individual slave owners, the economic system of slavery, the US government, or fathers and husbands, the reproductive capabilities of Blackwomen have long been discussed and decided on without the input of Blackwomen themselves. Most recently presidential hopefuls have attacked Blackwomen's access to abortion by spouting race specific anti-choice rhetoric. In 2011, a Southern Black Republican presidential candidate nominee, Herman Cain, accused Planned Parenthood's founder Margaret Sanger of placing "these centers (abortion providers) in primarily Black communities so they could help kill black babies before they came into the world."¹⁵⁴ When given the opportunity to clarify his statements Cain said, "[i]t's not Planned Parenthood. No, it's planned genocide. You can quote me on that."¹⁵⁵

Ben Carson, a 2016 Black Republican presidential hopeful followed in Cain's footsteps remarking, "the number one cause of death for black

¹⁵¹ *Id.*

¹⁵² M. Cordell Thompson, *Black Youngsters Are Sterilized by Alabama Agency*, *JET MAG.* (July 19, 1973), at 13.

¹⁵³ *Id.*

¹⁵⁴ Willoughby Mariano, *Cain Claims Planned Parenthood Founded for "Planned Genocide"*, *POLITIFACT GA.* (Apr. 8, 2011, 6:00 AM), <http://www.politifact.com/georgia/statements/2011/apr/08/herman-cain/cain-claims-planned-parenthood-founded-planned-gen>.

¹⁵⁵ Fred Lucas, *Herman Cain: 'It's Not Planned Parenthood—No, It's Planned Genocide'*, *CNSNEWS* (Mar. 15, 2011, 3:30PM), <http://www.cnsnews.com/news/article/herman-cain-it-s-not-planned-parenthood-no-it-s-planned-genocide>.

people is abortion.”¹⁵⁶ His campaign clarified that the Center for Disease Control (CDC) does not impart personhood on fetuses, thus they do not include abortion as an official cause of death. Meanwhile the CDC lists heart disease as the number one cause of death for Black Americans.¹⁵⁷

Both Cain and Carson incorrectly state that Planned Parenthood has a majority of its clinics in Black neighborhoods. Carson believes “[o]ne of the reasons you find most of their clinics in black neighborhoods is so that you can find ways to control that population.”¹⁵⁸ The Guttmacher institute reports that of all abortion providers, less than one in ten are located in zip codes that have a majority Black population.¹⁵⁹ While more than sixty percent of abortion providers are located in zip codes that have majority white residents.¹⁶⁰

Margaret Sanger’s motives for contraception access are often attributed to her eugenics ideologies and equated to Anti-Black racism.¹⁶¹ Most Black anti-choice activists focus on Sanger’s Negro Project and its focus on Blackwomen’s reproductive health.¹⁶² The project was established with the input and support of many prominent Black leaders including W.E.B. DuBois, Mary McLeod Bethune, and Reverend Adam Clayton Powell, Jr.¹⁶³ One oft used quote is purposely cut short to portray Sanger’s motives as racism: “[W]e want to exterminate the Negro population.”¹⁶⁴ Sangers full 1939 quote is:

¹⁵⁶ *Ben Carson: Abortions Are No.1 Cause of Death for Black People*, THEGRIO (Aug. 14, 2015, 5:55PM), <http://www.thegrio.com/2015/08/14/ben-carson-abortions-planned-parent-hood>.

¹⁵⁷ Heart Disease Facts, CTR. FOR DISEASE CONTROL AND PREVENTION, <http://www.cdc.gov/heartdisease/facts.htm> (last updated Aug. 10, 2015).

¹⁵⁸ Amber Ferguson, *Ben Carson Says Abortions Are Main Cause of Death for Black People*, HUFF. POST (Aug. 14, 2015, 11:54 AM), http://www.huffingtonpost.com/entry/ben-carson-abortion_55cdf1afe4b07addeb42a449.

¹⁵⁹ Glenn Kessler, *Margaret Sanger, Planned Parenthood and Black Abortions: Ben Carson’s False Claim*, WASH. POST (Aug. 18, 2015), available at <http://www.washingtonpost.com/news/fact-checker/wp/2015/08/18/carsons-claim-that-planned-parent-hood-targets-blacks-to-control-that-population>.

¹⁶⁰ *Id.*

¹⁶¹ For accusations of Margaret Sanger attempting to exterminate the negro race, see Tanya L. Green, *The Negro Project: Margaret Sanger’s Eugenic Plan for Black America*, BLACKGENOCIDE, <http://www.blackgenocide.org/negro.html> (last visited Feb. 13, 2017).

¹⁶² See e.g., *id.* (describing Sanger’s Negro Project as tantamount to genocide against Black people).

¹⁶³ Newsletter #28 (Fall 2001): “Birth Control or Race Control? Sanger and the Negro Project, N.Y.U.: MARGARET SANGER PAPERS PROJECT, https://www.nyu.edu/projects/sanger/articles/bc_or_race_control.php (last visited Feb. 13, 2017).

¹⁶⁴ *The Negro Project: Poor, Black, & Undesirable*, TOO MANY ABORTED, <http://www>.

The minister's work is also important and he should be trained, perhaps by the Federation as to our ideals and the goal that we hope to reach. We do not want word to go out that we want to exterminate the Negro population and the minister is the man who can straighten out that idea if it ever occurs to any of their more rebellious members.¹⁶⁵

Although this paternalistic statement talks about "rebellious" members of the Black race who might get the wrong idea, it is far from a genocidal rant about eliminating the Black race. The Negro project gained the support of Black religious leaders who believed that birth control and family planning were the key to upward economic mobility.¹⁶⁶

Further, discrediting Planned Parenthood as a whole is dangerous for the health of Black women, who on average face more barriers to preventive health care than their white counterparts.¹⁶⁷ Approximately 85 percent of the services that Planned Parenthood provides are preventive health care measures like STI/STD and cancer screenings.¹⁶⁸ Anti-choice activists attempt to paint the whole of Planned Parenthood as anti-Black due to the outdated eugenics ideals and statements of its founder, but fail to realize the important services that Planned Parenthood offers Blackwomen besides abortion access.¹⁶⁹

Even Dr. Martin Luther King Jr. himself was a public supporter of Planned Parenthood and was actually awarded the Planned Parenthood Federation of America (PPFA) Margaret Sanger Award in its inaugural

toomanyaborted.com/thenegroproject (last visited Feb. 13, 2017).

¹⁶⁵ Lori Robertson, *Cain's False Attack on Planned Parenthood*, FACTCHECK (Nov. 1, 2011), <http://www.factcheck.org/2011/11/cains-false-attack-on-planned-parenthood>.

¹⁶⁶ Alveda C. King, *An Analysis of the PPH MLK Brochure*, PRIESTS FOR LIFE, <http://www.priestsforlife.org/africanamerican/king-planned-parenthood-9-16.pdf> (last visited Feb. 13, 2017).

¹⁶⁷ "Black women live on average four years less than white women. Black women have shorter life spans than women in Barbados, Panama, Bosnia, and the Bahamas. Infant mortality rates are two times higher for [B]lacks. Vernella R. Randall, *Inequality in Health Care is Killing African Americans*, 36 American Bar Human Rights Mag., http://www.americanbar.org/publications/human_rights_magazine_home/human_rights_vol36_2009/fall2009/inequality_in_health_care_is_killing_african_americans.html.

¹⁶⁸ As of 2013, "97 percent of the services Planned Parenthood provides are other forms of reproductive and primary care [as opposed to abortions]." Lauren Carroll, "97% of Planned Parenthood's Work Is Mammograms, Preventive care, O'Malley Says," POLITIFACT (Aug. 3, 2015, 9:46AM), <http://www.politifact.com/truth-o-meter/statements/2015/aug/03/martin-omalley/97-planned-parenthoods-work-mammograms-preventive->

¹⁶⁹ Imani Gandy, *How False Narratives of Margaret Sanger are Being Used to Shame Black Women*, REWIRE (Aug. 20, 2015, 12:08PM), <http://www.rewire.news/article/2015/08/20/false-narratives-margaret-sanger-used-shame-black-women>.

year. In his response, delivered by his wife Coretta Scott King, family planning is hailed as a solution to one of the many ills facing the Black family. She stated:

For the Negro, therefore, intelligent guides of family planning are a profoundly important ingredient in his quest for security and a decent life. There are mountainous obstacles still separating Negroes from a normal existence. Yet one element in stabilizing his life would be an understanding of and easy access to the means to develop a family related in size to his community environment and to the income potential he can command.¹⁷⁰

The Kings' response further dispels any theories that the Black race intended to "breed" itself into political power by becoming the majority race in American cities.¹⁷¹ They went on to make clear that Civil Rights activists "do not welcome any solution which involves population breeding as a weapon."¹⁷² Although the Kings speak of the Negro with male pronouns, their assertion that parenthood should be planned and on purpose aligns them with, at the very least, the pro-contraception crowd. They also state that they are the "natural allies of those who seek to inject any form of planning in our society that enriches life and guarantees the right to exist in freedom and dignity."¹⁷³

A pro-choice advocate would argue that the right to choose abortion by Blackwomen falls squarely within the Kings' call for "the right to exist in freedom and dignity." Alveda King, niece of Dr. Martin Luther King Jr. however, holds starkly different views about the role that abortion plays in the lives of Blackwomen. She believes that her anti-choice activism is a natural progression of the civil rights movement, focusing on the civil right of life for every fetus.¹⁷⁴ Alveda King is the director

¹⁷⁰ Martin Luther King Jr., *Family Planning—A Special and Urgent Concern, Response on Receiving Award at the Fiftieth Anniversary Banquet of Planned Parenthood* (May 5, 1966), available at <http://www.thekingcenter.org/archive/document/family-planning-special-and-urgent-concern#> (last visited Jan. 17, 2017).

¹⁷¹ See *supra* notes 56–57 and accompanying text for a discussion of a Florida NAACP chapter.

¹⁷² King, Jr., *supra* note 170.

¹⁷³ *Id.*

¹⁷⁴ See Emily Derois, Opinion, *Dr. Martin Luther King's Niece Opposes Abortion: "Civil Rights and Human Rights Go Together"* LIFE NEWS (June 6, 2016, 9:44 AM), <http://www.lifenews.com/2016/06/06/dr-martin-luther-kings-niece-opposes-abortion-civil-rights-and-human-rights-go-together> ("I know in my heart that if Uncle Martin were alive today, he would join with me in the greatest civil rights struggle of this generation—the recognition of the unborn child's basic right to life.").

of African American Outreach for anti-choice organization Priests for Life.¹⁷⁵ She also supports and has testified in the Silent No More campaign which provides an outlet for women who regret having abortions.¹⁷⁶ Alveda King testified that her first abortion was performed by a physician without her knowledge and was understandably traumatic.¹⁷⁷ She referred to her second abortion as “voluntary,” clarifying that she made this choice under “adverse pressure and threat of violence” from the would-be baby’s father.¹⁷⁸

Alveda King blames the legalization of abortion access for her choice saying that “[t]he ease and convenience provided through *Roe v. Wade* made it too easy for me to make the fateful and fatal decision to abort our child.”¹⁷⁹ The “ease” with which Alveda King was able to abort her fetus has become increasingly difficult due to legislative measures delaying access to abortion service, as well as the out of pocket cost required to pay for the procedure.¹⁸⁰ After *Roe V. Wade*, abortion services were paid for under Medicaid, which provided medical care to low-income Americans. These low-income Americans were disproportionately women of color. Due to the original and continued attachment of the Hyde Amendment rider to appropriations bills, Medicaid no longer covers abortions.¹⁸¹ Given that over a quarter of Blackwomen in America live below the poverty line, and the average abortion cost of \$451, many Blackwomen don’t have the same “ease and convenience” that Alveda King had when she “chose” her abortion.¹⁸²

¹⁷⁵ Alveda C. King, An Urgent Election Message from Evangelist Alveda King, Director of Civil Rights for the Unborn for Priests for Life, PRIESTSFORLIFE (Oct. 26, 2016), <http://www.priestsforlife.org/africanamerican/blog/index.php/2016/10>.

¹⁷⁶ Alveda King, *Dr. Alveda King’s 2012 March for Life Testimony*, SILENT NO MORE AWARENESS, <http://www.silentnomoreawareness.org/testimonies/testimony.aspx?ID=2473> (last visited Feb. 13, 2017).

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ The Hyde Amendment?, NAT’L NETWORK OF ABORTION FUNDS, <https://abortionfunds.org/hyde> (last visited Jan. 17, 2017).

¹⁸¹ See *Harris v. McRae*, CTR. FOR CONSTITUTIONAL RIGHTS, <http://www.ccrjustice.org/home/what-we-do/our-cases/harris-v-mcrae> (last modified Oct. 22, 2007) for the legal challenges to the Hyde Amendment and its effects on low income women seeking abortions—except in cases where the mother’s life is in danger.

¹⁸² Alexandra Cawthorne, *The Straight Facts on Women in Poverty*, Ctr. for American Progress, http://www.americanprogress.org/wp-content/uploads/issues/2008/10/pdf/women_poverty.pdf, (Oct. 2008). Guttmacher Institute, *Cost of Abortion Services in the United States, 2009*, <http://www.guttmacher.org/in-the-know/abortion-costs.html>; Rachel K. Jones & Katherine

Alveda King also falsely equates abortion with slavery, just as Reverend Jesse Jackson did in the 1970s. She states “[e]very aborted baby is like a slave in the womb of his or her mother. The mother decides his or her fate.”¹⁸³ Although this statement doesn’t specify the race of women that she is targeting with her anti-choice statements, she is ignoring the actual histories of motherhood during slavery. Motherhood and slavery violently collided for Blackwomen and the choices that they made then, as well as now, illustrate the misogynoir that is particular to Blackwomen.

A. *Abortion as Black Genocide Propaganda*

This same misogynoir has been plastered all over American cities thanks to an advertising campaign put on by a Texas based anti-choice group, Life Always. Their initial campaign began in 2011 and the billboard went up in February, during Black History Month in order to “spark more discussion.”¹⁸⁴ Blackwomen in several states from New York, California, and Missouri have been subjected to billboards specifically targeting them, and their exercise of the right to choose abortion. The billboards use adorable Black children with threatening rhetoric aimed at shaming Blackwomen away from choosing abortion. One NYC billboard reads “[t]he most dangerous place for an African American is in the womb” and provides a link to Life Always’ website at thatsabortion.com.¹⁸⁵

This billboard is obviously targeting Blackwomen with its message full of misogynoir and it also attempts to put abortion atop the numerous social ills facing Black people, and particularly facing Black children.¹⁸⁶ Instead of focusing on rates of police brutality—one illustration

Kooistra, *Abortion Incidence and Access to Services in the United States*, 2008, Guttmacher Inst. (Mar. 2011), available at <http://www.guttmacher.org/sites/default/files/pdfs/pubs/journals/4304111.pdf>; see also Monica Simpson, *For the Love of Black Women, It’s Time to End the Hyde Amendment*, BLACKGIRLDANGEROUS (Sept. 30, 2016), <http://www.blackgirldangerous.org/2016/09/hyde-amendment> (“If this nation loved Black women, we wouldn’t be dying in childbirth at many times the rate of white women, we wouldn’t be paid 63 cents on the dollar compared to white men, we would not be burying so many children killed by law enforcement, and we would be able to get affordable contraception and access abortion care when we need it.”).

¹⁸³ King, *supra* note 175.

¹⁸⁴ Juliet Papa, *Controversial Anti-Abortion Billboard Causes Stir in SoHo*, CBS N.Y. (Feb. 23, 2011, 11:00 PM), <http://newyork.cbslocal.com/2011/02/23/controversial-anti-abortion-billboard-goes-up-in-soho/>

¹⁸⁵ Id. Liz Robbins, *Billboard Opposing Abortion Stirs Debate*, CITY ROOM (Feb. 23, 2011 12:08 PM), <http://www.cityroom.blogs.nytimes.com/2011/02/23/billboard-opposing-abortion-stirs-debate/>.

¹⁸⁶ Similar to the lives of Blackwomen, Black children are not afforded the same sense

of that brutality being the Stop and Frisk policies of the New York Police Department that overwhelmingly affect the Black community¹⁸⁷—or the social determinants of health,¹⁸⁸ or mass incarceration, or the alarmingly high rates of new HIV infections among Blackwomen, Life Always has placed the struggle for Black survival squarely within the wombs of Blackwomen.¹⁸⁹ They also falsely count the number of terminated pregnancies by Blackwomen in their death statistics for Black people in the United States unlike the Federal Government, Center for Disease Control and the Guttmacher Institute.¹⁹⁰ These inflated death statistics and emotionally charged billboards add undue pressure onto Blackwomen who may choose to terminate their pregnancies.

Other billboards take uplifting Black mantras like “black & beautiful” and place them above images of Black babies and a link to a Black anti-choice organization toomanyaborted.com.¹⁹¹ This billboard was

of childhood afforded to their white counterparts. This is particularly true for Blackgirls, but affects Black children of all genders. See Stacey Patton, Opinion, *In America Black Children Don't Get to Be Children*, WASH. POST (Nov. 26, 2014), https://www.washingtonpost.com/opinions/in-america-black-children-dont-get-to-be-children/2014/11/26/a9e24756-74ee-11e4-a755-e32227229e7b_story.html (“Black childhood is considered innately inferior, dangerous, and indistinguishable from black adulthood.”); see also Taylor Gordon, 10 Ways Racism Robs Black Children of Their Childhood, ATLANTA BLACKSTAR (Nov. 14, 2014), <http://www.atlantablackstar.com/2014/11/14/10-ways-racism-rob-black-children-of-their-childhood/> (listing the ways in which Black children are denied childhood vis-à-vis various legislative and policy measures).

¹⁸⁷ “In 2015, New Yorkers were stopped by the police 22,939 times . . . 12,223 were black (54 percent).” Stop and Frisk Data, N.Y. CIV. LIBERTIES U., <http://www.nyclu.org/content/stop-and-frisk-data> (last visited Feb. 13, 2017).

¹⁸⁸ “Social determinants of health are conditions in the environments in which people are born, live, learn, work, play, worship, and age that affects a wide range of health, functioning, and quality-of-life outcomes and risks.” Social Determinants of Health, HEALTHY PEOPLE, <http://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-of-health> (last visited Feb. 7, 2017).

¹⁸⁹ According to the CDC Black heterosexual women have higher new HIV infection rates than Black heterosexual men, and the highest of all races of women, falling behind only, Black, Latino, and White men who have sex with men. See HIV Among African Americans, CTR. FOR DISEASE CONTROL & PREVENTION, <http://www.cdc.gov/hiv/group/raciaethnic/africanamericans/index.html> (last updated Sep. 26, 2016).

¹⁹⁰ . See Gerard M. Nadal, Black Genocide and Planned Parenthood, Coming Home (Feb. 1, 2010), <https://www.gerardnadal.com/2010/02/01/black-genocide-and-planned-parenthood> (depicting a graph originally provided by Rev. Childress of LEARN, the largest anti-choice Black organization in the United States).

¹⁹¹ *Bay Area Anti-Abortion Billboards Draw Cries of Racism* (June 22, 2011), CBS SAN FRANCISCO, <http://www.sanfrancisco.cbslocal.com/2011/06/22/bay-area-anti-abortion-billboards-draw-cries-of-racism/>. See California: The Abortion Capital of the Nation, TooManyAborted.Com, <http://www.toomanyaborted.com/california/> (last visited Feb. 13, 2017).

placed in Oakland, California, the birthplace of the revolutionary Black Panther Party which used “Black is beautiful” as a poster slogan throughout the 1960s. A billboard in Chicago uses a red, white, and blue image of President Barack Obama and states “[e]very 21 minutes our next possible leader is aborted.”¹⁹² Despite President Obama’s pro-choice stance on abortion access, this billboard recalls the similar “one more revolutionary” rhetoric used by the early Black Panther Party movement and the “future leader” rhetoric spouted by NOI leaders. The potential of a Black fetus is placed above the integrity of the Blackwoman’s right to make her own medical decisions.

Many Atlanta and Missouri billboards paid for by Life Always state that “[b]lack children are an endangered species.”¹⁹³ In one sentence Life Always dehumanizes not only Black children, but also Blackwomen who choose abortion. By classifying Black children as a species, assumedly separate from current humans, the billboard denies them their humanity and likens them more to animals. This same animalistic rhetoric fueled justifications for slavery, Jim Crow segregation, and now the shaming of Blackwomen and their reproductive choices.¹⁹⁴

A Memphis, Tennessee billboard shows a variance in Life Always’ strategy to shame Blackwomen by focusing instead on the intended fathers of the could-be aborted fetus. The billboard crowns a smiling Black infant as “Dad’s Princess” and tells viewers that her heartbeat begins at 18 days.¹⁹⁵ By appealing to the presumably Black father, Life

¹⁹² Lisa Balde & Charlie Wojciechowski, *Anti-Abortion Billboards Arrive in Chicago* (Mar. 29, 2011), NBC CHICAGO, <http://www.nbcchicago.com/news/local/Anti-Abortion-Billboards-Headed-for-South-Side-118790299.html>. See Steven Ertelt, Pro-Life Billboard in Chicago Uses Obama Image to Hit Abortion, LIFE NEWS (Mar. 28, 2011, 12:42 PM), <http://www.lifenews.com/2011/03/28/pro-life-billboard-in-chicago-uses-obama-image-to-hit-abortion>.

¹⁹³ Steve Osunsami, *Abortion Billboards: Strong Words Spark Debates in Atlanta’s Black Neighborhoods*, ABC NEWS (Feb. 22, 2010), <http://www.abcnews.go.com/WN/billboard-controversy-signs-atlanta-black-children0endangered-species/story?id=9888149>. Black Children Are an Endangered Species, TOOMANYABORTED (Feb. 4, 2010), <http://www.toomanyaborted.com/black-children-are-an-endangered-species>.

¹⁹⁴ See generally Gregory S. Parks & Danielle C. Heard, “Assassinate the Nigger Ape []”: *Obama, Implicit Imagery, and the Dire Consequences of Racist Jokes*, SCHOLARSHIP@CORNELL LAW: A DIGITAL REPOSITORY (Aug. 14, 2009), http://www.scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1063&context=clsops_papers (providing examples of historic comparisons of Black people to animals and the ways in which these comparisons have been used to systematically dehumanize this race).

¹⁹⁵ Miriam Zoila-Pérez, *New Anti-Abortion Billboards Give Reproductive Justice Activists Déjà Vu*, COLORLINES (June 17, 2015, 11:00 AM), <http://www.colorlines.com/articles/new-anti-abortion-billboards-give-reproductive-justice-activists-déjà-vu>. See, Fetal Heartbeat: The

Always adds even more undue pressure onto Blackwomen who may be choosing abortion by creating a sense of entitlement on behalf of the could-be father. Life Always uses patriarchal ideas to reinforce that as a man, the would-be father, must protect his unborn, even at the expense of a Blackwoman's bodily autonomy. One viewer of the advertisement stated, "[t]o use [B]lack men like me to facilitate the erasure of [B]lack women like my wife and others from the conversation about their own bodies is not only propaganda, it's pathetic and repulsive."¹⁹⁶

The shifting of the advertisements to explicitly target Black men continues a long history of denying Blackwomen their reproductive autonomy. The early Black Panther Party, the Nation of Islam, and some civil rights leaders like Jesse Jackson encouraged women to breed for the Black liberation movements and the race. Although they recognized racism and its ills for the Black race, they did not acknowledge that these ills were in addition to the sexism that Blackwomen faced. Further, they didn't take into account that these same ills make motherhood for Blackwomen undesirable in a variety of situations. As Angela Davis wrote, "When Black and Latina women resort to abortions in such large numbers, the stories they tell are not so much about their desire to be free of their pregnancy, but rather about miserable social conditions which dissuade them from bringing new lives into the world."¹⁹⁷

Legislative attempts have recently been targeting Blackwomen and their right to "choose" abortion by co-opting the very language created by Blackwomen. The Black Lives Matter movement and chant was created in response to the murder of Trayvon Martin in 2012. Three queer Blackwomen, Alicia Garza, Opal Tometi, and Patrisse Cullors started this movement to demand respect for all Blacklives, including those of Blackwomen and their ability to determine their own futures.¹⁹⁸ This slogan has thus been misappropriated by anti-choice activists to plead for the end of abortions under the reasoning that all Black Lives Matters, including those of the unborn. In January 2016, Missouri Republicans

Development of Baby's Circulatory System, WHAT TO EXPECT, <http://www.whattoexpect.com/pregnancy/fetal-heartbeat> (last updated Apr. 16, 2015).

¹⁹⁶ Joseph Fatzick, *New Pro-Life Billboard is Apparently 'Racist'*, THE DAILY CALLER (June 8, 2015, 3:41 PM), <http://dailycaller.com/2015/06/08/new-pro-life-billboard-is-apparently-racist>.

¹⁹⁷ Davis, *supra* note 90, at 204.

¹⁹⁸ A HerStory of the #BlackLivesMatter Movement, BLACKLIVESMATTER, <http://www.blacklivesmatter.com/herstory> (last visited Feb. 15, 2017).

began pushing an anti-choice bill in the Missouri House of Representatives and titled it the All Lives Matter bill.¹⁹⁹ The bill, sponsored by Representative Mike Moon, would amend state law in favor of personhood, thus defining fertilized eggs as person at the point of conception.²⁰⁰

Congressman Sean Duffy, a Republican from Iowa addressed the Congressional Black Caucus in January 2016 stating:

There is a targeting going on in a lot of spaces and a lot of places, and it's going on in the abortion industry. And my friends, my liberals, Congressional Black Caucus Members, they talk about fighting for the defenseless, and the hopeless, and the downtrodden. But there is no one more hopeless and voiceless than an unborn baby, but their silence is deafening. I can't hear them. Where are they standing up for their communities, advocating and fighting for them, their right to life?²⁰¹

Representative Moon is asking the Congressional Black Caucus to fight to limit abortion access at the expense of Blackwomen's reproductive choices. Again, the potential Black child's interest in life, regardless of the discriminatory conditions of that life, is placed above the right for Blackwomen to choose motherhood instead of having it forced upon them.

V. BLACKWOMEN'S RESPONSE TO THIS MYTH

Blackwomen have always been champions of reproductive choice, and have worked tirelessly to create a better world for those that choose birth and their babies. The myth of abortion as Black genocide has been, and still is, continually used to diminish the revolutionary work of Blackwomen. But their response to this myth and its propaganda showcase the ingenuity and perseverance of Blackwomen. One American feminist historian wrote about Blackwomen in slavery, saying "those who encounter

¹⁹⁹ Teddy Wilson, *Missouri Republicans to Push Anti-Choice 'All Lives Matter' Bill*, REWIRE (Jan. 11, 2016, 10:57 AM), <http://rhrefrealitycheck.org/article/2016/01/11/missouri-republicans-push-anti-choice-lives-matter-bill>.

²⁰⁰ Id. "[T]his 'personhood' bill would virtually wipe out abortion access—and likely be found unconstitutional." Sophia Tesfaye, *Missouri GOP Rep Introduces "All Lives Matters" Bill to Grant Fetuses Personhood*, Salon (Jan. 13, 2016, 8:58 AM), http://www.salon.com/2016/01/13/missouri_gop_rep_introduces_all_lives_matters_bill_to_grant_fetuses_personhood.

²⁰¹ Monica Simpson, *For Black Women's Lives to Matter, Legislators Must Halt Attacks on Our Bodily Autonomy*, REWIRE (Jan. 14, 2016, 11:01 AM), <http://rhrefrealitycheck.org/article/2016/01/14/black-womens-lives-matter-legislators-must-halt-attacks-bodily-autonomy> (quoting Rep. Sean Duffy).

oppression through the body, the body becomes an important site not only of suffering but also . . . resistance.”²⁰² This resistance is longstanding, and has culminated in a focus on Reproductive Justice, encompassing more than just the right to “choose” abortion.

The Reproductive Justice movement was born out of women of color recognizing that the mainstream pro-choice movement focused mostly on abortion access.²⁰³ These heavily publicized white feminists did not sufficiently address the racism and classism that lead many women of color to abortion, as well as prohibit them from raising their children in decent satisfactory environments. Reproductive Justice is the “complete physical, mental, spiritual, political, social and economic wellbeing of women and girls, based on the full achievement and protection of women’s human rights.”²⁰⁴ The movement focuses on women of color and indigenous women and works to secure three types of rights: the right to have a child, the right to not have a child (contraception and abortion access), and the right to parent. While focusing on the ends, like healthier women and girls and communities, versus the means, like abortion access,²⁰⁵ this movement works alongside movements for self-determination, anti-racism, and anti-poverty to improve the lives of women and men.²⁰⁶

The Reproductive Justice movement reaffirms the agency of Blackwomen and other women of color. In the converse, the myth of abortion as Black genocide considers Blackwomen incapable of making their own reproductive choices. Proponents of the myth often blame feminism, which they consider a solely white women’s movement, for the higher rates of abortions for Blackwomen. This belief ignores and belittles the amazing herstories of Blackwomen who have been performing abortions for centuries in the United States. During bondage, Blackwomen

²⁰² Stephanie M. H. Camp, CLOSER TO FREEDOM: ENSLAVED WOMEN AND EVERYDAY RESISTANCE IN THE PLANTATION SOUTH 94 (2004).

²⁰³ “Many individuals, groups and organizations find the term [“reproductive justice”] helpful in moving beyond the singular focus on abortion that dominates the pro-choice movement.” Loretta Ross, *Understanding Reproductive Justice*, TRUST BLACK WOMEN (Nov. 2006), <http://www.trustblackwomen.org/our-work/what-is-reproductive-justice/9-what-is-reproductive-justice>.

²⁰⁴ Loretta Ross, *What Is Reproductive Justice?* in *Reproductive Justice Briefing Book: A Primer on Reproductive Justice and Social Change* 4, <http://www.law.berkeley.edu/php-programs/courses/fileDL.php?fID=4051> (last visited Feb. 15, 2017).

²⁰⁵ *Id.*

²⁰⁶ *See id.* at 4–5.

kept secret the contraceptive and abortion methods that they imported from Africa and passed down, or learned in the United States.²⁰⁷ Refusing to produce more Black children to sustain the system of slavery was proof of the agency of Blackwomen, and the lengths that they would go in order to exert it over themselves.

Further, Blackwomen have and continue to organize around abortion access within the larger Reproductive Justice framework. Prior to the legalization of abortion in 1973, many Blackwomen participated in the underground abortion movement throughout the United States.²⁰⁸ One network, called Jane, provided safe and affordable abortions by women who learned how to perform the procedure themselves, and then charged less than other, often less safe, practitioners.²⁰⁹ After *Roe*, Blackwomen continued to provide and advocate for safe abortions. In 1974, Byllye Avery cofounded the Gainesville Women's Health Center after learning to perform abortions.²¹⁰ She then founded the National Black Women's Health Project in 1983, which continues to advocate for autonomy and agency for Blackwomen today.²¹¹

Blackwomen are writing, tweeting, and creating art centering themselves and their agency in their abortion narratives.²¹² One Blackwoman author attacked Ben Carson's harmful genocidal rhetoric writing for Aljazeera America saying, "[t]o use factually incorrect rhetoric to render our healthcare needs and experiences irrelevant is an affront to our dignity."²¹³ Other Blackwomen have also been using their organizations

²⁰⁷ Muna Abdullahi, *A Short History of African American Women and Abortion*, TRUST BLACK WOMEN (July 2010), <http://www.trustblackwomen.org/2011-05-10-03-28-12/publications-a-articles/african-americans-and-abortion-articles/24-a-short-history-of-african-american-women-and-abortion>.

²⁰⁸ *Id.*

²⁰⁹ Raina Lipsitz, *Bring Back the Abortion Underground Railroad*, AL-JAZEERA AMERICA (Oct. 23, 2014, 2:00 AM), <http://www.america.aljazeera.com/opinions/2014/10/texas-abortion-clinicswomensrights.html>.

²¹⁰ Byllye Y. Avery, *Black Women's Health Imperative*, <http://www.bwhi.org/staff-and-board-members/board-member/byllye-nbsp-y.-nbsp-avery-nbsp/> (last visited Feb. 15, 2017).

²¹¹ *Id.*

²¹² See, e.g., Michael Pearson, *Women Embrace, Criticize, #ShoutYourAbortion*, CNN, <http://www.cnn.com/2015/09/22/living/shout-your-abortion-feat/> (last updated Sept. 29, 2015) (describing women's use of social media to destigmatize abortions); see also Tasha Fierce, 'I Had an Abortion,' *Ebony* (Jan. 12, 2015), <http://www.ebony.com/wellness-empowerment/i-just-had-an-abortion-403#axzz3xGPJ2Nt5> (recounting one Black woman's reasons for and experiences of undergoing an abortion).

²¹³ Renee Bracey Sherman, *Dr. Ben Carson's Tall Tales About Abortion and Black Women*, AL-JAZEERA AMERICA (Sept. 1, 2015, 2:00 AM), <http://www.america.aljazeera.com/>

to directly respond to the misleading billboards targeting their right to choose abortion. SisterReach, a Black Reproductive Justice organization, placed several ads around Memphis Tennessee's Black Neighborhoods asking viewers to "trust black women" and their reproductive decisions. The organization advertises means to ensure that Blackwomen can exercise all their reproductive choices including having children, not having children, and parenting the children that they have. One billboard has a Blackwomen's face with the text "I don't deserve to be shamed for my reproductive health decisions, even when it is an abortion. Trust me to make the best decisions for myself, my family, and my community."²¹⁴

A second billboard uses an adorable Black baby just as the anti-choice advertisements did, but instead of shaming Blackwomen, it asks viewers to ensure that Blackwomen have "a chance."²¹⁵ The ad reads, "[h]elp ensure that my mommy has: [a] living wage, [a]ffordable housing, [a] safe environment, [h]ealthcare, [r]eliable transportation, [s]afe and robust schools, [a] chance." Another advertisement portrays a heterosexual Black family and lists the same qualities for the family.²¹⁶ All the advertisements tell viewers to "trust black women" and center their decision-making as final and competent to choose their reproductive futures.

Unlike the anti-choice proponents of the myth of abortion as Black genocide, Blackwomen are actively working to combat genocidal plots against Black people in the United States. For example, the Black Lives Matter movement is focusing on state violence in the form of police brutality, poverty, mass incarceration, immigration, Black trans and queer discrimination.²¹⁷ The Say Her Name campaign is also bringing light to the Blackwomen (trans and cis) victims of police brutality in the United States.²¹⁸ SisterSong continues to bring women of color together in order

opinions/2015/9/dr-ben-carsons-tall-tales-about-abortion-and-black-women.html.

²¹⁴ Cherisse Scott, *New Billboards Bring Message to Empower and Inspire Black Community*, REWIRE (Oct. 7, 2015, 9:50 AM), <http://rhrealitycheck.org/article/2015/10/07/new-billboards-bring-messages-empower-inspire-black-community>. See "Pro-Women" Billboards Going up across Memphis, *Local Memphis*, <http://www.localmemphis.com/news/local-news/new-pro-choice-billboards-debut-in-memphis/198899775> (last visited Dec. 9, 2017) for further discussion of the billboards.

²¹⁵ Cindy Cooper, *Billboards by SisterReach Put Reproductive Justice on High in Memphis*, WORDS OF CHOICE: UP THE CREATIVITY (Aug. 13, 2015), <http://www.wordsofchoice.blogspot.com/2015/08/billboards-by-sisterreach-put.html>.

²¹⁶ *Id.*

²¹⁷ About the Black Lives Matter Network, BLACKLIVESMATTER, <http://blacklivesmatter.com/about/> (last visited Feb. 16, 2017).

²¹⁸ #SayHerName, AFRICAN AMERICAN POLICY FORUM, <http://www.aapf.org/sayhername>

to eradicate reproductive oppression and secure human rights for all women and girls.²¹⁹ Spark! champions reproductive justice and collaborates with other organizations focusing on the states in the American South.²²⁰ By utilizing the history of the South as “ground zero for dangerous and restrictive legislative policies . . .” Spark continues to grow within intersecting communities and privileges the voices most marginalized in the fight for reproductive justice.²²¹

CONCLUSION

Given the incredible work that Blackwomen have and continue to partake in to advance and liberate the Black race as a whole, all men, but particularly Black men, should support them in their reproductive choices. The revolutionary work of Black reproductive justice activists and organizations are not so much asking for Black men’s support, but demanding it along with their respect. They demand and deserve that the loyalty with which Blackwomen have supported Black men through slavery, Jim Crow segregation, Civil Rights and Black Liberation movements be reciprocated when Blackwomen attempt to exercise their own bodily autonomy.

The importance of this reciprocity could radically shift and repair some, but not all, of the gender chasms within Black social justice organizations and the Black community as a whole. By attacking the misogynoir of anti-choice activists, Blackwomen continue to assert their agency over themselves, and their communities. Not only can a race divided not flourish, but any movement that fails to center those members at the margins will inevitably reproduce the same oppressions that they claim to want to end. By trusting and empowering Blackwomen to make their own reproductive decisions, anti-choice activists can shift their considerable resources to more worthwhile and non-oppressive causes to ensure the thriving of the Black race.

These anti-choice organizations and activists detract, or completely ignore, the other sources of damage to the Black community by focusing solely on abortion as a genocidal plot. They also lobby for legislation which would limit or eradicate Blackwomen’s already limited access to

(last visited Feb. 16, 2017).

²¹⁹ SisterSong, <http://www.sistersong.net> (last visited Feb. 16, 2017).

²²⁰ “About Us”; SPARK, <http://www.sparkrj.org/about>.

²²¹ *Id.*

safe abortions. Eliminating access to abortions does not stop them from occurring, as is evidenced by the availability of illegal abortions pre-*Roe v. Wade*. It will however lead to women dying at the hands of illegal abortionists and many of those women will be Blackwomen. In an aim to limit the reproductive choices of Blackwomen, these anti-choice activists push towards a future where Blackwomen will continue to make the difficult choice to abort, and will have to risk their very lives in order to see that choice through.

The United Nations' definition of genocide includes provisions for "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part."²²² This provision would be clearly satisfied in the future that anti-choice activists attempt to march towards. Forcing abortion into back alleys will inflict an impossible condition onto Blackwomen, already burdened by the intersecting oppressions of misogynoir. In an ironic twist, these anti-choice activists attempting to save the Black race will bring about the destruction to the very lives that birth and sustain the race, Blackwomen.

Mass incarceration continues, along with high HIV infection rates, to lower the Black community's quality of life and endanger its survival. Our children continue to be overrepresented in the foster care and juvenile justice systems. These less misogynistic causes, among countless others, desperately seek activism and solutions that could benefit the Black community, but instead some Blackwomen and men foolishly choose to turn against Blackwomen that demand their own reproductive autonomy. Supporting Blackwomen who choose abortion also helps to reinforce the idea that their lives matter regardless of their reproductive choices. Working to end these injustices will positively impact the Black community, and do not rely on reinforcing traumatizing anti-Blackwomen tropes like the mammy and jezebel.

Given the current (and constant) state of American society, it is no surprise to me that Black women choose abortion over birth at higher rates than white women.²²³ But framing this as a free choice when it is made under constant duress (like most choices Blackwomen and girls make) is a scapegoat for the government, media, Black men, and American society as a whole. For example, the high rates of poverty among

²²² See *supra*, note 9 and accompanying text.

²²³ Susan A. Cohen, *Abortion and Women of Color: The Bigger Picture*, 11 GUTTMACHER POLICY REV. 2 (2008), <http://www.guttmacher.org/pubs/gpr/11/3/gpr110302.html>.

Blackwomen, the portrayal and blame on Black women for being single mothers, and the continued belief that Blackwomen are promiscuous. The Black community needs to abandon the myth of abortion as Black genocide and begin withdrawing support and shaming those who support it both outside and especially within our communities. Condemning us Blackwomen that choose abortion helps all of these actors avoid taking any responsibility for the toxic environment that Black mothers must choose to deliver their infants into. Denouncing, and attempting to deny us our agency will only slow the liberation of all of us, but it will not deter, nor stop us Blackwomen. We are not, nor have we ever been, mere vessels to birth your revolutionaries. We are the revolution.

