

2022

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Recommended Citation

Pilar C. Whitaker, *Occupational Segregation as a Driver of Racial Health Disparities Among Black Women*, 67 St. Louis U. L.J. (2022).

Available at: <https://scholarship.law.slu.edu/lj/vol67/iss1/5>

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**OCCUPATIONAL SEGREGATION AS A DRIVER OF RACIAL
HEALTH DISPARITIES AMONG BLACK WOMEN**

PILAR C. WHITAKER*

ABSTRACT

Public Health experts and scholars have long recognized racial health disparities as driven by various conditions of daily life, which are now defined as the Social Determinants of Health (“SDOH”). However, there is limited research on the policy and legal landscape that underlies each of the SDOH. This Article identifies occupational segregation, reinforced by several discriminatory policies and legal decisions, as foundational to each of the SDOH. Moreover, this Article posits that occupational segregation itself causes racial health disparities, as evidenced by the disproportionate burden of disease carried by workers in segregated industries. An analysis of the ways in which occupational segregation amplifies each of the SDOH supports the conclusion that addressing the key characteristics of a segregated workforce, such as a lack of employer-sponsored health insurance, lack of job stability, and limited access to paid leave, would improve health outcomes for workers, and Black women, in particular.

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INTRODUCTION

Racial health disparities—defined by the federal government as “a particular type of health difference that is closely linked with social, economic, and/or environmental disadvantage”¹—have been inexorably linked with discriminatory labor systems since the slave trade. This is especially true for people of color, and Black Americans in particular, who have endured worse health outcomes relative to white people since slavery.² For example, in 1860, the death rate was 1.8 percent for enslaved people and 1.2 percent for white people.³ As described in *Caring for Equality*:

Overall, the enslaved person’s health was under constant peril. Harmful physical and physiological conditions such as poor diets, inadequate shelter, violence, and psychological stress were endemic to slave life. Some of these conditions triggered biological processes of specific diseases. Moreover, slaves were subject to the frequent misdiagnoses or prejudiced callousness of physicians and other health practitioners in charge of tending ill slaves.⁴

And so, biological differences between races do not account for racial health disparities.⁵ Throughout history, racial health disparities have been caused by occupational segregation—the systemic, and often violent, relegation of Black, Indigenous, and other people of color to harsher, more dangerous labor conditions that maintain the economy at the expense of individual health. This paper argues that occupational segregation—the overrepresentation or underrepresentation of different demographic groups in certain kinds of work based on race, ethnicity, and sex—is a primary cause of racial health disparities⁶ in the United States, especially among women of color. Part I demonstrates how various legal authorities create and reinforce a segregated workforce driven by race and sex discrimination. Part II identifies occupational segregation as a targeted effort to relegate Black people and women to lower paying jobs through

1. *Disparities*, OFF. OF DISEASE PREVENTION & HEALTH PROMOTION, <https://www.healthy people.gov/2020/about/foundation-health-measures/Disparities> [<https://perma.cc/8U8H-4PNZ>] (last visited Aug. 28, 2022).

2. Brett Milano, *How Slavery Still Shadows Health Care*, HARV. GAZETTE (Oct. 29, 2019), <https://news.harvard.edu/gazette/story/2019/10/ramifications-of-slavery-persist-in-health-care-inequality/> [<https://perma.cc/539M-WV9Y>].

3. KENNETH M. STAMPP, *THE PECULIAR INSTITUTION: SLAVERY IN THE ANTE-BELLUM SOUTH* 318–19 (Vintage Books, 1956).

4. DAVID MCBRIDE, *CARING FOR EQUALITY: A HISTORY OF AFRICAN AMERICAN HEALTH AND HEALTHCARE 2* (Rowman & Littlefield, 2018).

5. Rana Asali Hogarth, *The Myth of Innate Racial Differences Between White and Black People’s Bodies: Lessons From the 1793 Yellow Fever Epidemic in Philadelphia, Pennsylvania*, 109 AM. J. PUB. HEALTH 1339, 1340–41 (2019); Jennifer Tsai, *What Role Should Race Play in Medicine?*, SCI. AM. (Sept. 12, 2018), <https://blogs.scientificamerican.com/voices/what-role-should-race-play-in-medicine/> [<https://perma.cc/7AHX-9BYT>].

6. The phrase “racial health disparities” includes the Latino/a ethnicity for the purpose of this discussion.

rigid legal policy and social structures. Part III discusses the vast and harmful economic and health impacts of occupational segregation, especially on women of color. Part IV demonstrates that occupational segregation underlies each of the Social Determinants of Health (“SDOH”), by: (1) creating economic instability for workers; (2) acting as a barrier to health care of all forms; (3) erecting near insurmountable barriers to quality education and housing; and (4) subjecting people to stressful or even hostile work environments.

I. THE LAW, RACISM, AND SEXISM AS INTERTWINED CAUSES OF OCCUPATIONAL SEGREGATION

The Emancipation Proclamation did not end the subjugation of Black people into harsh labor conditions. For example, one scholar noted that “[b]etween 1890 and 1910 . . . no change whatever occurred in the industrial structure of the Black labor force. In both years, 62% of Black workers were employed in agriculture.”⁷ Moreover, data from 1890 revealed “a continuing clear pattern of exclusion of Blacks from high-income, high-status trades,” with all skilled occupations excluding Black people.⁸ In fact, Black labor in the South remained concentrated on cotton plantations through World War I, effectively continuing slavery long after Emancipation.⁹ Occupational segregation extended into Northern cities after the beginning of World War I, as well.¹⁰ For example, in Pennsylvania, 85% of Black women worked outside of the home in domestic services and clothing industries.¹¹ Black workers were largely denied skilled labor jobs and up to 95% of Black workers were siloed into “unskilled” labor roles.¹² In the 1950’s, Black men held only a “small share of professional, clerical, and craftsman jobs” and more than half of all women employed in private households were Black women.¹³ In fact, jobs held by Black people during this time were “characterized by lower job stability and by casual and part-time work which interrupts job tenure.”¹⁴

This legacy of slavery—the relegation of Black people into lower-status jobs—endures. Today, health care jobs considered to be the “‘dirty work’ of care—direct care for older, disabled, and ill bodies and bodily functions”—are

7. Jay R. Mandle, *Continuity and Change: The Use of Black Labor After the Civil War*, 21 J. BLACK STUD. 414, 416 (1991).

8. *Id.*

9. *Id.* at 417.

10. Joe T. Darden, *The Effect of World War I on Black Occupational and Residential Segregation: The Case of Pittsburgh*, 18 J. BLACK STUD. 297, 304 (1988).

11. *Id.* at 302.

12. *Id.* at 303.

13. Mary S. Bedell, *Employment and Income of Negro Workers—1940-52*, 76 MONTHLY LAB. REV. 596, 599 (June 1953), <https://www.bls.gov/opub/mlr/1953/article/employment-and-income-of-negro-workers-1940-52.htm> [<https://perma.cc/3FEJ-X4EN>].

14. *Id.*

disproportionately comprised of Black women.¹⁵ One in five Black women is employed in the health care field, and 64.7% of which are licensed practical nurses and aides.¹⁶ The Equal Employment Opportunities Commission likewise identified women of color as comprising a disproportionate share of frontline jobs during the COVID-19 pandemic, including child care and social services, retail, customer service, and fast food workers.¹⁷

As illustrated below, occupational segregation severely impacts women of color in the United States because of systemic policies that disadvantage this group relative to white members of the workforce. These, and several other workforce disadvantages underlie each of the SDOH and are thus correlated with worse health outcomes for people of color, and especially women.

A. *Occupational Segregation and the Law*

Rebecca Dixon, the Executive Director of the National Employment Law Project, defines occupational segregation as “the preservation of glass and concrete ceilings and the way racist and sexist policy choices pushed people of color and women into underpaid occupations.”¹⁸ Indeed, every branch of the United States government has upheld discriminatory systems that maintain a workforce segregated by race, gender, gender identity, disability status, or sexual orientation. For example, in 1872, in an 8–1 decision, the Supreme Court held that the Fourteenth Amendment did not prohibit the Illinois Supreme Court from denying a woman the right to practice law because of her sex.¹⁹ In his concurring opinion, Justice Bradley iterated that he was “not prepared to say that it is one of [woman’s] fundamental rights and privileges to be admitted into every office and position, including those which require highly special qualifications and demanding special responsibilities.”²⁰ The Court did not recognize protection from such arbitrary sex-based exclusions under the Fourteenth Amendment until

15. Janette Dill & Mignon Duffy, *Structural Racism and Black Women’s Employment In The US Health Care Sector*, 41 HEALTH AFFS. 265, 269–70 (2022), <https://www.healthaffairs.org/doi/10.1377/hlthaff.2021.01400> [<https://perma.cc/CZH9-C9N6>].

16. *Id.* at 268.

17. Hye Jin Rho et al., *A Basic Demographic Profile of Workers in Frontline Industries*, CTR. FOR ECON. & POL’Y RSCH. 1, 2 (Apr. 7, 2020), <https://cepr.net/wp-content/uploads/2020/04/2020-04-Frontline-Workers.pdf> [<https://perma.cc/P5EQ-7R6J>].

18. *From Excluded to Essential: Tracing the Racist Exclusion of Farmworkers, Domestic Workers, and Tipped Workers from the Fair Labor Standards Act: Before the Subcomm. on Workforce Prot., Educ. and Lab.*, 117th Cong. 3 (2021) [hereinafter *Hearing*] (statement of Rebecca Dixon, Executive Director, National Employment Law Project), <http://www.nelp.org/publication/testimony-from-excluded-to-essential-tracing-the-racist-exclusion-of-farmworkers-domestic-workers-and-tipped-workers-from-the-fair-labor-standards-act/> [<https://perma.cc/VN5A-CUDG>].

19. *Bradwell v. State of Illinois*, 83 U.S. 130, 139 (1872).

20. *Id.* at 142.

nearly 100 years later in *Reed v. Reed*.²¹ Recent judicial decisions similarly uphold exclusions of groups of people from the workplace. In 2018, the Eleventh Circuit held that an employee's termination because of his sexual orientation was not unlawful under Title VII, which prohibits discrimination on the basis of sex.²² The Supreme Court later held that "discrimination on the basis of sex," necessarily prohibited discrimination arising out of an individual's sexual orientation and gender identity.²³

For its part, the Executive Branch has, historically, worked to exclude certain groups of people from the federal workforce, including the military. A 1925 memorandum entitled "Notes on Proposed Plan for Use of Negro Manpower" described Black servicemen as "of inferior mentality" and "inherently weaker in character" relative to white men, and thus, not "leadership material."²⁴ Today, of the forty-one most senior commanders in the military, just two are Black, despite the fact 43% of enlistees are women and people of color.²⁵ Occupational segregation has long been endemic to the entirety of the federal government. In a 1966 letter, the Chairman of the United States Civil Service Commission described its "policy for determining suitability" as excluding LGBTQ people. According to this policy, "Persons about whom there is evidence that they have engaged in or solicited others to engage in homosexual or sexually perverted acts with them, without evidence of rehabilitation, are not suitable for Federal employment."²⁶ And, in 2019, the Department of Defense issued a policy that prohibited transgender people from enlisting in the military

21. *Reed v. Reed*, 404 U.S. 71, 77 (1971). Moreover, Title VII of the Civil Rights Act of 1964 expressly declares that no employer, labor union, or other organization shall discriminate against any individual on the basis of "race, color, religion, sex, or national origin." 42 U.S.C. § 2000e-2; The United States Supreme Court acknowledged that Congress itself concluded the "classifications based upon sex are inherently invidious" *Frontiero v. Richardson*, 411 U.S. 677, 687 (1973).

22. *Bostock v. Clayton Cnty. Bd. of Comm'rs*, 723 F. Appx 964 (11th Cir. 2018), *vacated*, 140 S. Ct. 1731 (2020).

23. *Bostock v. Clayton Cnty., Georgia*, 140 S. Ct. 1731, 1743 (2020) (holding "[f]or an employer to discriminate against employees for being homosexual or transgender, the employer must intentionally discriminate against individual men and women in part because of sex").

24. Memorandum from H.F. Fly, Major General U.S.A., on Notes on Proposed Plan for Use of Negro Manpower, for the Chief of Staff (Nov. 10, 1925), https://www.fdrlibrary.org/documents/356632/390886/tusk_doc_a.pdf/4693156a-8844-4361-ae17-03407e7a3dee [<https://perma.cc/NN4X-JH94>].

25. Helene Cooper, *African-Americans are Highly Visible in the Military, but Almost Invisible at the Top: Seventy-Five Years after Integration, the Military's Upper Echelons Remain the Domain of White Men*, N.Y. TIMES (May 25, 2020), <https://www.nytimes.com/2020/05/25/us/politics/military-minorities-leadership.html> [<https://perma.cc/4484-P6BM>].

26. Letter from John W. Macy, Jr., Chairman, U.S. Civ. Serv. Comm'n, to The Mattachine Society of Washington, D.C. (Feb. 25, 1966) (On file with Mattachine Society documents archive) (The Mattachine Society was a group that advocated the repeal of sodomy laws and restrictive employment practices which discriminate against LGBTQ people).

at the behest of former President Donald Trump.²⁷ President Biden reversed that policy two years later.²⁸

Finally, Congress has cemented economic disadvantage in the most segregated workforces, especially those that are disproportionately comprised of women of color. As discussed by Dixon, the Fair Labor Standards Act—which establishes a minimum wage, outlaws child labor, and mandates overtime pay—intentionally excludes the occupations that are disproportionately held by Black workers “in order to deny Black people the opportunity for economic and social freedom and to preserve a system where employers could profit off of racist exploitation.”²⁹ At the FLSA Congressional hearings, “the NAACP Legal Defense Fund argued the combination of employment discrimination and the lack of a minimum wage would serve as a ‘double penalty’ for Black workers.”³⁰ As further discussed below, recent history has proven this to be correct.

Thus, the deeply-entrenched notion that women, people of color, and LGBTQ people are not “suitable” for certain jobs is an outgrowth of centuries of both *de facto* policies and legal precedents.

B. *Discrimination as a Catalyst of Occupational Segregation*

According to the Department of Labor, women of color must contend with both “supply-side” and “demand-side” factors that push them into lower-paying jobs with less benefits and fewer work place protections.³¹ On the supply side, women must contend with various social norms that dictate suitability for certain jobs, such as teaching, nursing, and caregiving, based on gender.³² Additionally, although women, on average, have earned the majority of Bachelor’s degrees since the early 1980’s, they face significant barriers to entering educational tracks that lead to higher paying jobs in STEM occupations.³³ Furthermore, a lack of social safety net support for workers with family caregiving responsibilities—such as affordable child care, paid time off and family leave, and predictable scheduling—limits employment options for many women.³⁴ Compounding these supply-side barriers is a lack of access to mentorship and

27. Memorandum from Department of Defense on Military Service by Transgender Persons and Persons with Gender Dysphoria - DTM-19-004 (Mar. 12, 2019).

28. Exec. Order No. 14004, 86 Fed. Reg. 7471, 7472 (Jan. 28, 2021).

29. *Hearing, supra* note 18, at 3 (statement of Rebecca Dixon).

30. *Id.* at 8 (citing Juan F. Pera, *The Echoes of Slavery: Recognizing the Racist Origins of the Agricultural and Domestic Worker Exclusion From the National Labor Relations Act*, 72 OHIO ST. L.J. 95, 112–13 (2011)).

31. *Bearing the Cost: How Overrepresentation in Undervalued Jobs Disadvantaged Women During the Pandemic*, U.S. DEP’T OF LAB. 16 (Mar. 15, 2022), <https://www.dol.gov/sites/dolgov/files/WB/media/BearingTheCostReport.pdf> [<https://perma.cc/8BE5-DR99>].

32. *Id.* at 17.

33. *Id.*

34. *Id.* at 18.

capital, both of which provide more opportunity and allow for greater risk-taking, including entrepreneurship.³⁵

But, underlying many of these supply-side factors is either systemic or individual race and gender discrimination. Indeed, race and gender discrimination play an outsized role in driving occupational segregation and is the greatest demand-size factor. As noted by the Department of Labor, even women and people of color who overcome supply-side factors must often contend with discrimination in the workplace.³⁶ Discrimination impacts recruitment, hiring, promotions, role placement based on gender and racial stereotypes, and many of these practices contribute to a “concrete ceiling” of career advancement for women and people of color.³⁷ As one report noted, for every 100 men promoted to manager, only 86 women are promoted.³⁸

Finally, discrimination also enables hostile workplace harassment and enables workplace cultures, such as inflexible work policies, that serve to exclude women and people of color from certain types of jobs. Women of color, people living with disabilities, and LGBTQ people may face intersectional discrimination, which leads to multiple layers of discrimination in the workplace and further reinforces occupational segregation.

II. ECONOMIC AND HEALTH IMPACTS OF OCCUPATIONAL SEGREGATION

Occupational segregation negatively and severely impacts almost every aspect of daily life. According to the Department of Labor, women of color earn “billions of dollars less than white men per year because they are so much more likely to be funneled into the lowest wage, lowest prestige jobs with the fewest opportunities for advancement—none of which indicates that their labor is not essential.”³⁹ As discussed further below, the combination of depressed wages and a lack of workplace protections and benefits drives worse economic and health outcomes, especially for women of color.

A. *Economic Impacts of Occupational Segregation*

First, as noted by the Department of Labor, “[s]ince the gender and racial makeup of an occupation’s workforce is so highly correlated with wages, occupational segregation is a significant driver of gender and racial wage gaps.”⁴⁰ “As more women enter an occupation, the wages drop.”⁴¹ For this

35. *Id.* at 18–19.

36. *Id.* at 19.

37. *Id.*

38. Tiffany Burns et al., *Women in the Workplace 2021*, MCKINSEY & CO. (Sept. 27, 2021), <https://www.mckinsey.com/featured-insights/diversity-and-inclusion/women-in-the-workplace> [<https://perma.cc/2VDL-YFQ6>].

39. U.S. DEP’T OF LAB., *supra* note 31, at 3–4.

40. *Id.* at 4.

41. *Id.* at 20.

reason, occupational segregation perpetuates widespread economic inequality, especially for women of color. For example, according to a Department of Labor study, “Black and Latino employees are underrepresented in STEM positions, the highest paid field in [the] study, while Latino workers are highly overrepresented in restaurant and construction positions, the two lowest paid fields studied.”⁴² Moreover, Black workers are concentrated in health, a field with both high and low paying positions, but are more likely to hold lower-paying health care positions. In fact, almost four in ten (38%) Black employees working in health care are health or personal care aids with typical incomes below \$25,000 per year. According to the Department of Labor, “[s]egregation by industry and occupation cost Black women an estimated \$39.3 billion, and Hispanic women an estimated \$46.7 billion, in lower wages compared to white men in 2019.”⁴³

This is true despite workforce participation rates. Black women, for example, are the largest participants in the workforce relative to women of other races, yet have a gender wage gap of 64 cents compared to every dollar earned by white, non-Hispanic men in 2020.⁴⁴ Education level does not even the playing field. For example, in Mississippi, Black women with a Bachelor’s degree earn only 83 cents for every dollar paid to a non-Hispanic white man with an Associate’s degree.⁴⁵ Black women in the state with Doctorate degrees earn only slightly more than a white man with an Associate’s degree.⁴⁶ The effects of income inequality cannot be overstated. Thirty-five percent of Black working women make less than a living wage of \$15 an hour.⁴⁷ In 2019, Black mothers who worked full time were five times more likely to live in poverty than white, non-Hispanic fathers (11.6% versus 2.3%).⁴⁸

42. Laura Sullivan et al., *Not Only Unequal Paychecks: Occupational Segregation, Benefits, and the Racial Wealth Gap*, INST. ON ASSETS & SOC. POL’Y 1, 5 (2019), https://heller.brandeis.edu/iere/pdfs/racial-wealth-equity/assetintegration/occupational_segregation_report_40219.pdf [https://perma.cc/688Y-5NL8].

43. *Equal Pay Day 2022: Actions Include US Department of Labor Report on Occupational Segregation; Report Explores Women’s Wage Dynamics*, U.S. DEP’T OF LAB. (Mar. 15, 2022), <https://www.dol.gov/newsroom/releases/osec/osec20220315#> [https://perma.cc/T6XG-QGCF].

44. U.S. DEP’T OF LAB., *supra* note 31, at 10, 21.

45. Mississippi Low-Income Child Care Initiative, *Mississippi is Shortchanging Women*, NAT’L WOMEN’S L. CTR. 1, 2 (2018), <https://nwlc.org/wp-content/uploads/2018/01/MS-Is-Shortchanging-Women-Fact-Sheet.pdf> [https://perma.cc/6UHB-XDVH].

46. *Id.*

47. *The Raise the Wage Act: Boosting Women’s Paychecks and Advancing Equal Pay*, NAT’L WOMEN’S L. CTR. 2 (Oct. 2019), <https://nwlc.org/wp-content/uploads/2019/10/Raise-the-Wage-Act-Boosting-Womens-Pay-Checks-10.22.19.pdf> [https://perma.cc/YYG5-T3SX].

48. Jasmine Tucker, *It’s Time to Pay Black Women What They’re Owed*, NAT’L WOMEN’S L. CTR. 1, 3 (July 26, 2021), <https://nwlc.org/wp-content/uploads/2020/07/BWEPD-2021-7.26.21.pdf> [https://perma.cc/659P-YYZL].

Not only does occupational segregation deny women of color higher wages, but critical workplace protections, as well. Women-dominated jobs are “less likely to include benefits like employer-provided health insurance and retirement plans compared to male-dominated occupations.”⁴⁹ Over a third (36%) of Black women workers lack paid sick leave, leaving a sizeable portion of Black women without the ability to tend to their own personal health needs.⁵⁰

B. Occupational Segregation as the Cause of Poor Health Outcomes

Finally, there is a strong correlation between the health of individuals and occupational segregation. A recent study identified occupational segregation as a driver of persistent racial inequity in hypertension.⁵¹ The study showed that Black female health care workers—who are overly-concentrated in lower paying and lower status jobs in the health care field—are at higher risk of hypertension because they are more likely to face workplace stress stemming from less job security, greater workplace demand, and limited flexibility and support.⁵² Moreover, the COVID-19 pandemic has laid bare the connection between occupational segregation and the health of individuals. Workers most likely to work on the “front lines” also work in the most segregated workforces.⁵³ These include hospital, retail, food service, security, and mass transit employees who must work in congregate settings in public-facing jobs, all of which are disproportionately comprised of people of color.⁵⁴ Workers on the front lines of the pandemic are not only more likely to contract COVID-19, but to become severely ill or hospitalized from the virus given the prevalence of underlying conditions already existing among workers in segregated occupations.⁵⁵

However, employees in segregated occupations were already highly susceptible to developing work-related illness and disease prior to the COVID-19 pandemic. The National Institute for Occupational Safety and Health has found that risk factors for cardiovascular disease, such as hypertension, plaque

49. U.S. DEP’T OF LABOR, *supra* note 31, at 20.

50. Jessica Milli et al., *Black Women Need Access to Paid Family and Medical Leave*, CTR. FOR AM. PROGRESS (Mar. 4, 2022), <https://www.americanprogress.org/article/black-women-need-access-to-paid-family-and-medical-leave/> [<https://perma.cc/K5T2-JK33>].

51. Tongtan Chantararat et al., *Occupational Segregation and Hypertension Inequity: The Implication of the Inverse Hazard Law Among Healthcare Workers*, J. ECON., RACE, & POL’Y, (Mar. 22, 2022), <https://link.springer.com/article/10.1007/s41996-022-00098-5> [<https://perma.cc/6K26-3YT8>].

52. *Id.*

53. Hye Jin Rho et al., *supra* note 17, at 3–4; *See generally* Julia Raifman et al., *The Unequal Toll of COVID-19 on Workers*, WORKING BLOG (Feb. 7, 2022, 1:19 PM), <https://www.epi.org/blog/the-unequal-toll-of-covid-19-on-workers/> [<https://perma.cc/2T7W-UWCD>].

54. Hye Jin Rho et al., *supra* note 17, at 4.

55. *See* Joanna Gaitens et al., *COVID-19 and Essential Workers: A Narrative Review of Health Outcomes and Moral Injury*, 18 INT’L J. ENV’T. RES. & PUB. HEALTH 1, 8 (2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7913818/> [<https://perma.cc/C2SY-5WNE>].

formation, peripheral artery disease, and dysregulation of stress hormone secretion, are associated with long work hours, low job control, and blue collar work—key features of segregated workplaces.⁵⁶ Moreover, a Michigan report showed that Black workers were at higher risk of lung disease and asthma than their white counterparts.⁵⁷ Likewise, Latinx workers were at higher risk of acute fatal injuries and pesticide injury than non-Hispanics.⁵⁸ Both groups were over-represented in the highest risk, lowest paid occupations.⁵⁹

Occupational segregation not only causes poor physical health, but worse mental health outcomes, as well.⁶⁰ One study observed that women in jobs where they make less than men are significantly more likely to suffer depression and anxiety compared to women who make more than men.⁶¹ That same study concluded that gender discrimination, often expressed through wage gaps, may explain gendered mental health disparities.⁶²

III. OCCUPATIONAL SEGREGATION AND THE SOCIAL DETERMINANTS OF HEALTH

The various policies and societal structures that segregate people into low-paid jobs with limited employment protections and benefits underlie each of the Social Determinants of Health (“SDOH”).⁶³ The Centers for Disease Control and Prevention (“CDC”) defines the SDOH as “the conditions in the environments where people are born, live, learn, work, play, worship, and age that affect a wide range of health, functioning, and quality-of-life outcomes and risks.”⁶⁴ The SDOH include: (1) economic stability; (2) education access and quality; (3) health care access and quality; (4) neighborhood and built

56. Nat’l Inst. for Occupational Safety and Health (NIOSH), *Specific Studies of Occupational Factors and CVD: NIOSH Collaborations with Ongoing Population-Based Studies*, CTR. FOR DISEASE CONTROL & PREVENTION (Jan. 31, 2017), <https://www.cdc.gov/niosh/topics/heartdisease/heartstudies.html> [<https://perma.cc/PZF9-AJS8>]; Kaori Fujishiro et al., *Occupational Characteristics and the Progression of Carotid Artery Intima-Media Thickness and Plaque Over 9 Years: the Multi-Ethnic Study of Atherosclerosis (MESA)*, 72 OCCUP. & ENV’T MED. 690, 690 (2015).

57. Martha Stanbury & Kenneth D. Rosenman, *Occupational Health Disparities: A State Public Health-Based Approach*, 57 AM. J. INDUS. MED. 596, 600 (2014).

58. *Id.* at 602.

59. *Id.* at 598.

60. Jonathan Platt et al., *Unequal Depression for Equal Work? How the wage gap explains gendered disparities in mood disorders*, 149 SOC. SCI. MED. 1, 9 (2016).

61. *Id.*

62. *Id.*

63. *Social Determinants of Health*, U.S. DEP’T OF HEALTH AND HUM. SERVS. & OFF. OF DISEASE PREVENTION & HEALTH PROMOTION, <https://health.gov/healthypeople/objectives-and-data/social-determinants-health> [<https://perma.cc/T4WQ-P5KR>] (last visited Aug. 1, 2022).

64. *Id.*

environment; and (5) social and community context.⁶⁵ As shown below, occupational segregation is foundational to each of the SDOH and is, itself, a primary driver of racial health disparities in the United States.

A. *Economic Stability*

There is a strong nexus between occupational segregation and economic stability.⁶⁶ The CDC defines this as “the connection between the financial resources people have—income, cost of living, and socioeconomic status—and their health.”⁶⁷ Economic stability includes poverty and employment status, as well as food and housing security.⁶⁸ According to the CDC, economic stability is dependent upon steady employment.⁶⁹ The CDC further notes that people with “steady employment are less likely to live in poverty and more likely to be healthy, but many people have trouble finding and keeping a job.”⁷⁰ Indeed, the health of individuals may be driven by their employment status. According to one study, “individuals who are unemployed are more likely to have stress-related conditions such as CVD, hypertension, and diabetes”⁷¹ Another study similarly concluded that “[w]orkers who have experienced job loss and those whose jobs are unstable or precarious are more likely to report hypertension than those with stable jobs.”⁷²

Yet, Black workers are less likely than white workers to hold stable, higher-paying jobs because of occupational segregation and the systems that perpetuate it.⁷³ The Department of Labor noted that, generally, women of color are most negatively impacted during an economic downturn.⁷⁴ Furthermore, women of color endure the economic impacts of an economic downturn for longer than other groups.⁷⁵ The COVID-19 pandemic brought the precariousness of

65. *Id.*

66. *Social Determinants of Health: Know What Affects Health*, U.S. DEP’T OF HEALTH & HUM. SERVS. (Mar. 10, 2021), <https://www.cdc.gov/socialdeterminants/about.html> [<https://perma.cc/5EYG-PHLY>].

67. *Id.*

68. *Id.*

69. *Economic Stability*, U.S. DEP’T OF HEALTH & HUM. SERVS. & OFF. OF DISEASE PREVENTION & HEALTH PROMOTION, <https://health.gov/healthypeople/objectives-and-data/browse-objectives/economic-stability> [<https://perma.cc/75UM-R4T4>] (last visited Aug. 2, 2022).

70. *Id.*

71. Sravani Singu et al., *Impact of Social Determinants of Health on the Emerging COVID-19 Pandemic in the United States*, 8 FRONT. PUB. HEALTH 1, 7 (2020), <https://www.frontiersin.org/articles/10.3389/fpubh.2020.00406/full> [<https://perma.cc/T9WX-LMH2>].

72. Tongtan Chantarat et al., *supra* note 51.

73. Christian E. Weller, *African Americans Face Systematic Obstacles to Getting Good Jobs*, CTR. FOR AM. PROGRESS (Dec. 5, 2019), <https://www.americanprogress.org/article/african-americans-face-systematic-obstacles-getting-good-jobs/> [<https://perma.cc/W89D-GEQZ>].

74. U.S. DEP’T OF LAB., *supra* note 31, at 7.

75. *Id.*

segregated jobs into sharp focus. According to the Department of Labor, Black and Hispanic women are overly-concentrated in occupations that experienced greater job losses and had fewer opportunities to telework, resulting in higher unemployment rates during the pandemic.⁷⁶ The job loss disproportionately experienced by Black workers during the pandemic reflected the fact that this group is often “last hired and first fired,” meaning they are often the first to become unemployed and the last to transition back into employment.⁷⁷ This is due, in large part, to racial discrimination.⁷⁸

B. Health Care Access and Quality

Occupational segregation is one of the greatest barriers to health care in the United States. Employer-sponsored health insurance has been described as “private social security”—a system so fundamental to the United States health care system that “chaos would certainly result” if it were to suddenly disappear.⁷⁹ Yet, jobs segregated by race and gender not only pay significantly lower wages, but often do not provide this vital benefit.⁸⁰ In fact, 45% of Black Americans did not have employer-sponsored health insurance in 2019.⁸¹ Women of color disproportionately carry this burden.⁸² As noted by the Kaiser Foundation, these higher rates of un-insurance are related to lower rates of job-based coverage.⁸³ As shown below, a lack of health insurance has far reaching consequences, especially for women of color who are already living with low incomes.

Moreover, obtaining health insurance outside of one’s employer is not always feasible. First, many people who do not have employer-sponsored

76. *Id.* at 9.

77. *Id.*

78. *Id.*

79. David Blumenthal, *Employer-Sponsored Health Insurance in the United States—Origins and Implications*, 355 NEW ENG. J. MED. 82, 82 (2006).

80. Kate Bahn & Carmen Sanchez Cumming, *Factsheet: U.S. Occupational Segregation by Race, Ethnicity, and Gender*, WASH. CTR. FOR EQUITABLE GROWTH (July 1, 2020), <https://equitablegrowth.org/factsheet-u-s-occupational-segregation-by-race-ethnicity-and-gender/> [<https://perma.cc/R3VM-GLDK>].

81. Assistant Sec’y for Plan. & Evaluation, *Health Insurance Coverage and Access to Care Among Black Americans: Recent Trends and Key Challenges*, U.S. DEP’T OF HEALTH & HUM. SERVS. 1, 7 (Feb. 22, 2022), <https://aspe.hhs.gov/sites/default/files/documents/08307d793263d5069fdd6504385e22f8/black-americans-coverages-access-ib.pdf> [<https://perma.cc/7VTW-3TBG>].

82. Rosemarie Day & Deb Gordon, *Employer-sponsored health insurance contributes to structural racism*, HILL (Sept. 5, 2020, 8:00 AM), <https://thehill.com/opinion/healthcare/515184-employer-sponsored-health-insurance-contributes-to-structural-racism/> [<https://perma.cc/7GXH-URJM>].

83. *2019 Employer Health Benefits Survey*, KAISER FAM. FOUND. Figure 3.9 (Sept. 25, 2019), <https://www.kff.org/report-section/ehbs-2019-section-3-employee-coverage-eligibility-and-participation/#figure39> [<https://perma.cc/UH8Y-TG96>].

insurance can purchase a health plan through the Affordable Care Act's health insurance Marketplace ("the Marketplace"). However, these plans may be unaffordable for some lower income people. For example, according to the Kaiser Family Foundation, health insurance premiums on the Marketplace can cost a person earning \$40,000 a year up to \$242 per month.⁸⁴ Workers without employer-sponsored insurance also face barriers to reproductive health care, including abortion services.⁸⁵ Twenty-five states prohibit abortion coverage through their health insurance exchanges—a primary source of insurance for people without employer-sponsored insurance.⁸⁶ Second, many states have failed to expand Medicaid access, leaving many people with low-paying jobs unable to access public health insurance, either.⁸⁷ Thus, segregating people into jobs without employer-sponsored health care often leaves them entirely unable to access health insurance from any source.

Compounding this inability to access health insurance is a lack of paid sick leave in jobs that are most impacted by occupational segregation. Paid sick leave enables workers to take time off of work in order to attend doctor's appointments or care for themselves when sick. According to the Center for American Progress's analysis of federal workforce data, over a third (38%) of Black women workers nationally lack paid sick leave, including 721,000 leaves needed annually, but not taken for one's own health.⁸⁸ Thus, coupled with a lack of employer-sponsored health insurance, workers in segregated workforces are often unable to access health care.

1. Primary Health Care

Black people utilize primary care providers at only two-thirds the rate of white people, which is largely due to disparities in insurance status and household income.⁸⁹ In general, without health insurance, people often forgo

84. Giorlando Ramirez et al., *How ACA Marketplace Premiums Are Changing by County in 2022*, KAISER FAM. FOUND. (Dec. 7, 2021), <https://www.kff.org/private-insurance/issue-brief/how-aca-marketplace-premiums-are-changing-by-county-in-2022/> [<https://perma.cc/BEK2-Y7ZW>].

85. *Regulating Insurance Coverage of Abortion*, GUTTMACHER INST. (July 1, 2022), <https://www.guttmacher.org/state-policy/explore/regulating-insurance-coverage-abortion> [<https://perma.cc/V7CN-5P8E>].

86. *Id.*

87. Selena Simmons-Duffin, *12 Holdout States Haven't Expanded Medicaid, Leaving 2 Million People in Limbo*, NPR (July 1, 2021, 5:00 AM), <https://www.npr.org/sections/health-shots/2021/07/01/1011502538/12-holdout-states-havent-expanded-medicaid-leaving-2-million-people-in-limbo> [<https://perma.cc/B3LJ-ZSVD>].

88. Jessica Milli et al., *supra* note 50.

89. M.J. Arnett et al., *Race, Medical Mistrust, and Segregation in Primary Care as Usual Source of Care: Findings from the Exploring Health Disparities in Integrated Communities Study*, 93(3) J. URB. HEALTH 456, 456 (2016); Rachel Garfield et al., *The Uninsured and the ACA: A Primer - Key Facts about Health Insurance and the Uninsured Amidst Changes to the Affordable*

doctor visits, are unable to access medications to manage chronic conditions, and delay care when they are ill.⁹⁰ Approximately six in ten uninsured adults under 65 say they have put off or postponed health care due to cost.⁹¹ For example, compared to other essential workers, personal care aides (comprised of 25% Black women) are also more likely to be unable to see a doctor due to cost.⁹² This is especially devastating for people of color who experience higher rates of illness and disease, including diabetes, hypertension, asthma, heart disease, and cancer.⁹³ Access to health insurance plays a critical role in preventing many of these diseases and treating them when they do occur. For example, studies have shown that insurance coverage increases diabetes diagnosis and treatment.⁹⁴ Likewise, health insurance improves hypertension treatment, management, and control, and is likely to reduce disparities in access to medical care for hypertension.⁹⁵ And, people without insurance are more likely to experience a range of poor health outcomes arising out of cardiovascular disease, which is the leading cause of death in the United States, and among Black women, especially.⁹⁶ This problem is exacerbated by the fact that workers in the most segregated occupations disproportionately suffer with

Care Act, KAISER FAM. FOUND. (Jan. 25, 2019), <https://www.kff.org/report-section/the-uninsured-and-the-aca-a-primer-key-facts-about-health-insurance-and-the-uninsured-amidst-changes-to-the-affordable-care-act-how-does-lack-of-insurance-affect-access-to-care/> [<https://perma.cc/G4H8-K5XB>].

90. Peggy Bailey et al., *African American Uninsured Rate Dropped by More Than a Third Under Affordable Care Act: Repealing ACA and Cutting Medicaid Would Undercut Progress*, CTR. ON BUDGET & POL'Y PRIORITIES 1, 3 (2017), <https://www.cbpp.org/research/health/african-american-uninsured-rate-dropped-by-more-than-a-third-under-affordable-care> [<https://perma.cc/LFD5-9YMX>].

91. Alex Montero et al., *Americans' Challenges with Health Care Costs*, KAISER FAM. FOUND. (July 14, 2022), <https://www.kff.org/health-costs/issue-brief/americans-challenges-with-health-care-costs/> [<https://perma.cc/N9JE-V24M>].

92. Winifred L. Boal et al., *Health Care Access Among Essential Critical Infrastructure Workers, 31 States, 2017-2018*, 137(2) PUB. HEALTH REP. 301, 301 (2021).

93. George A. Mensah, *Cardiovascular Diseases in African Americans: Fostering Community Partnerships to Stem the Tide*, 72 AM. J. KIDNEY DISEASES S37, S37 (2018) (Supp. 1).

94. Rebecca Myerson et al., *The Affordable Care Act and Health Insurance Coverage Among People With Diagnosed and Undiagnosed Diabetes: Data From the National Health and Nutrition Examination Survey*, 42 DIABETES CARE e179, e180 (2019).

95. H. Angier et al., *Role of Health Insurance and Neighborhood-level Social Deprivation on Hypertension Control Following the Affordable Care Act Health Insurance Opportunities*, 265 SOC. SCI. MED. 1, 1, 5 (2020).

96. Ameen Barghi et al., *Coverage and Access for Americans with Cardiovascular Disease or Risk Factors After the ACA: a Quasi-experimental Study*, 34 J. GEN. INTERN. MED. 1797, 1797 (2019); *Leading Causes of Death, Females, Non-Hispanic Black, United States, 2018*, CTR. FOR DISEASE CONTROL & PREVENTION Table 1 (Mar. 3, 2022), <https://pubmed.ncbi.nlm.nih.gov/31250367/> [<https://perma.cc/G5V5-AFYZ>].

chronic conditions and unmet health care needs.⁹⁷ For example, a CDC study showed that home health aides, who earn just \$23,803 on average, have the highest prevalence of almost every chronic condition, except severe obesity.⁹⁸

2. Reproductive Health Care

Accessing reproductive health care can be especially challenging for Black women in segregated workforces. First, a lack of health insurance is a barrier to contraception access. “The most effective forms of contraception are ‘provider-dependent,’ meaning that ‘they require a renewed prescription, an administration of a drug, or a physical check-up annually to continue use[,] . . . having insurance coverage or the ability to pay out-of-pocket to obtain it through a provider, most likely a specialist.’”⁹⁹ This leaves uninsured, low-income women with only free or inexpensive methods of birth control, which are less effective.¹⁰⁰ Black women are more likely to report using a less effective method of birth control and thus more likely to experience unplanned pregnancy.¹⁰¹

Furthermore, occupational segregation intensifies existing structural barriers to abortion care and moves it out of reach altogether for many women and pregnant people. As an initial matter, abortion care is costly and inaccessible to people earning lower incomes. During the 2017-2020 period, medication abortion cost, on average, \$560; first trimester abortion cost \$575; and second trimester abortion \$895.¹⁰² Eleven states prohibit private fully-insured plans from covering abortion care, so even people with employer-sponsored health insurance may be unable to access abortion care due to cost.¹⁰³

The cost of abortion is exacerbated by abortion bans or other restrictions that make abortion access even more costly. As more states proscribe abortion, the national average of travel distance will increase to an estimated 280 miles to

97. Marina Zhavoronkova et al., *Occupational Segregation in America*, CTR. FOR AM. PROGRESS (Mar. 29, 2022), <https://www.americanprogress.org/article/occupational-segregation-in-america/> [<https://perma.cc/QVB9-2B3C>]; Mensah, *supra* note 93.

98. Sharon R. Silver et al., *Prevalence of Underlying Medical Conditions Among Selected Essential Critical Infrastructure Workers—Behavioral Risk Factor Surveillance System, 31 States, 2017–2018*, 69(36) MORBIDITY & MORTALITY WEEKLY REP. 1244, 1247 (2020); Zhavoronkova, *supra* note 97.

99. Tanya Funchess et al., *Racial Disparities in Reproductive Healthcare among Parous and Nulliparous Women in Mississippi*, 8 J. RACIAL & ETHNIC HEALTH DISPARITIES 304, 311 (2021).

100. *Id.*

101. *Contraceptive Access, Choice, & Utilization: A Survey of Mississippi Women*, CTR. FOR MISS. HEALTH POL’Y (2020), mshealthpolicy.com/women-contraception-survey/ [<https://perma.cc/R2GJ-YWDQ>].

102. Ushma D. Upadhyay et al., *Trends In Self-Pay Charges And Acceptance For Abortion In The United States, 2017-20*, 41(4) HEALTH AFFS. 507, 507 (2022).

103. GUTTMACHER INST., *supra* note 85.

receive an abortion.¹⁰⁴ Even before the Supreme Court's ruling in *Dobbs v. Jackson Women's Health*, permitting states to outlaw abortion altogether, research showed Black and other women of color were already less likely to travel long distances to obtain abortion care.¹⁰⁵ A national study published in 2019 revealed that "[b]lack patients were half as likely to travel each category of distance"—0-25 miles; 25-49 miles; 50+ miles—"farther compared with white patients."¹⁰⁶ "White patients, college-educated, and U.S.-born patients were more likely to travel farther for an abortion," which, the study's authors noted, "may reflect that these groups have more material, informational, and social resources to be able to travel."¹⁰⁷

Abortion travel disparities are largely attributable to occupational segregation. Many Black women cannot overcome the logistical burden of last-minute interstate travel because of inflexible work obligations and low pay. Though workers in professional occupations may request and take time off on short notice, low-wage workers, in the service industry in particular, often face work schedules that are "unstable and unpredictable."¹⁰⁸ A study by Harvard's Shift Project found that 80% of low-wage food and retail workers surveyed have no input in their schedules.¹⁰⁹ And even among these workers, racial disparities persist as to scheduling: "non-white workers are 10% to 20% more likely to experience on-call shifts, 'clopenings' (back-to-back closing-then-opening shifts separated by less than 11 hours), and involuntary part-time work," making coordination of the necessary appointments, travel, and childcare especially difficult.¹¹⁰ The study also found that female workers of color in these industries are more likely to experience schedule instability than any other group of low-wage workers employed by the same employer.¹¹¹ Service and low-wage

104. See Quoc Trung Bui et al., *What Happens if Roe v. Wade is Overturned?*, N.Y. TIMES (Oct. 15, 2020).

105. Liza Fuentes & Jenna Jerman, *Distance Traveled to Obtain Clinical Abortion Care in the United States and Reasons for Clinic Choice*, 28 J. WOMEN'S HEALTH 1623, 1627 (2019), <https://www.liebertpub.com/doi/10.1089/jwh.2018.7496> [<https://perma.cc/4VGM-57ZE>].

106. *Id.* at 1627.

107. *Id.*

108. Daniel Schneider & Kristen Harknett, *It's About Time: How Work Schedule Instability Matters for Workers, Families, and Racial Inequality*, SHIFT PROJECT (2019), <https://shift.hks.harvard.edu/its-about-time-how-work-schedule-instability-matters-for-workers-families-and-racial-inequality/> [<https://perma.cc/V6UC-7SST>]; Lonnie Golden, *Irregular Work Scheduling and Its Consequences*, ECON POL'Y INST. (Apr. 9, 2015), www.epi.org/publication/irregular-work-scheduling-and-its-consequences/ [<https://perma.cc/39YX-JA35>]; Lawyers' Committee for Civil Right Under Law as Amici Curiae in Support of Plaintiff at 22, *June Medical Servs. L.L.C. v. Gee*, 913 F. 3d 573 (5th Cir. 2019) (Nos. 18-1323, 18-1460).

109. Schneider & Harknett, *supra* note 108.

110. *Id.*

111. *Id.*

occupations also often do not provide paid sick leave,¹¹² and a person in a low-wage job must therefore give up vital income to obtain out-of-state care.

3. Prenatal and Maternal Health Care

Finally, occupational segregation has a profound impact on maternal health care access at every stage of pregnancy, including postpartum care. It should be noted that pregnant workers in segregated jobs are already vulnerable in the workplace, as many lack basic accommodations and face discrimination that threatens both their livelihoods and the health of their baby.¹¹³ As the National Women's Law Center reports, pregnant workers are more likely to hold jobs that require standing and continuous movements, which pose challenges during pregnancy.¹¹⁴ Over one in five pregnant women hold physically demanding low-wage jobs, which are disproportionately comprised of Black and Latina women.¹¹⁵ Moreover, workers in many of the occupations where pregnant Black women most commonly work were likely to report standing and being exposed to disease daily while at work.¹¹⁶

Compounding the physical demands of working while pregnant are challenges in accessing prenatal and postnatal health care largely related to a lack of insurance coverage and support for paid family leave in segregated workforces. According to one study, "women who experienced a shift between insurance and uninsurance or continuous uninsurance were significantly less likely to receive prenatal care in the first trimester."¹¹⁷ And, 46% of workers are ineligible for even *unpaid*, job-protected leave under the Family Medical Leave Act.¹¹⁸ A lack of sufficient paid or unpaid maternity leave limits an employee's

112. Drew DeSilver, *As Coronavirus Spreads, Which U.S. Workers Have Paid Sick Leave – and Which Don't?*, PEW RSCH. CTR. (July 27, 2020), www.pewresearch.org/fact-tank/2020/03/12/as-coronavirus-spreads-which-u-s-workers-have-paid-sick-leave-and-which-dont/ [https://perma.cc/5DCH-VH8G]; *Paid Sick Days Access and Usage Rates Vary by Race/Ethnicity, Occupation, and Earnings*, INST. FOR WOMEN'S POL'Y RSCH. (Feb. 2016), iwpr.org/wp-content/uploads/2020/08/B356-paid-sick-days.pdf [https://perma.cc/B3W3-DLA9].

113. Morgan Harwood & Sarah D. Heydemann, *By the Numbers: Where Do Pregnant Women Work?*, NAT'L WOMEN'S L. CTR. 1 (Aug. 2019), <https://nwlc.org/wp-content/uploads/2019/08/Pregnant-Workers-by-the-Numbers-v3-1.pdf> [https://perma.cc/L6PR-LBF4].

114. *Id.*

115. *Id.*

116. *Id.*

117. Lindsay K. Admon et al., *Insurance Coverage and Perinatal Health Care Use Among Low-Income Women in the US, 2015-2017*, 4(1):e2034549 JAMA NETWORK OPEN 1 (2021), <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2775636> [https://perma.cc/HJ9R-WJ4X].

118. Sarah Coombs, *Paid Leave is Essential for Healthy Moms and Babies*, NAT'L P'SHIP FOR WOMEN & FAMILIES AND NAT'L BIRTH EQUITY COLLABORATIVE (2021), <https://www.nationalpartnership.org/our-work/resources/health-care/paid-leave-is-essential-for-healthy-moms-and-babies.pdf> [https://perma.cc/3SBW-XFGH].

ability to access postpartum and well-child care for themselves and their baby.¹¹⁹ Moreover, Black women disproportionately report being fired for taking maternity leave.¹²⁰ Thus, occupational segregation perpetuates deep inequities in health care, as well as reproductive and maternal health care for Black women, in particular.

B. *Education Access*

According to the Department of Labor, gaps in educational attainment and training among women of color are a “supply-side factor” that contributes to occupational segregation.¹²¹ In the Department’s view, women are prohibited from reaching their full potential in the labor market because of barriers to quality education and various fields of study that lead to more lucrative employment opportunities.¹²² However, occupational segregation is also a root cause of educational disparities, given the intergenerational impacts of living with a low income. As explained by the National Center for Children in Poverty:

Children growing up in low-income families face many challenges that children from more advantaged families do not. These children are more likely to experience multiple family transitions, move frequently, and change schools. The schools they attend are less well funded, and the neighborhoods they live in are more disadvantaged. The parents of these children have fewer resources to invest in them and, as a consequence, their homes have fewer cognitively-stimulating materials, and their parents invest less in their education.¹²³

Moreover, research has proven that children from low-income families are less likely to graduate from high school or go to college.¹²⁴ As discussed above, a hallmark of occupational segregation is low wages for women of color. And so, it is not always the case that limited educational attainment causes occupational segregation. Rather, occupational segregation often limits educational opportunities for future generations.

C. *Neighborhood and Built Environment*

The Neighborhood and Built Environment SDOH is “the connection between where a person lives—housing, neighborhood, and environment—and

119. *Id.*

120. *Id.* at 3.

121. U.S. DEP’T OF LAB., *supra* note 31, at 2.

122. *Id.* at 23.

123. Robert L. Wagmiller & Robert M. Adelman, *Childhood and Intergenerational Poverty: The Long-Term Consequences of Growing Up Poor*, NAT’L CTR. FOR CHILD. IN POVERTY (2009), <https://www.nccp.org/publication/childhood-and-intergenerational-poverty/> [https://perma.cc/GGT7-5HLD].

124. Virginia H. Burney & Jayne R. Beilke, *The Constraints of Poverty on High Achievement*, 31 J. FOR EDUC. GIFTED 171, 179 (2008), <http://journals.sagepub.com/doi/10.4219/jeg-2008-771> [https://perma.cc/WJF2-87BP].

their health and well-being.”¹²⁵ The federal government recognizes that people living with low incomes are more likely to live in neighborhoods with high rates of violence, unsafe air or water, and other health and safety risks.¹²⁶ Low wages associated with occupational segregation is an insurmountable barrier to quality housing in better neighborhoods for many people in the United States. So, too, are jobs that restrict upward mobility to higher paying opportunities, especially as rent continues to rise. The rising cost of rent disproportionately burdens those living with low wages with 62% of people earning less than \$25,000 a year spending more than half their incomes on housing.¹²⁷ The COVID-19 pandemic laid bare the relationship between low wages and housing vulnerability. More than half of renters living with incomes below \$25,000 lost wages during the COVID-19 pandemic and one in five were behind on rent during this period, compared to just 7% of renters earning more than \$75,000.¹²⁸ A recent report shows that rents have become even less affordable from February 2021 to February 2022 with rents increasing between 30%-40% in several major cities.¹²⁹ Rent has increased nearly 60% in Miami, Florida.¹³⁰

Workers in segregated jobs throughout the United States not only find themselves unable to access better housing, but may be forced into worse housing conditions as rents rise and low-wages remain stagnant. Fifteen states have a minimum wage equal to the federal minimum wage of \$7.25 an hour and five have no required minimum wage, which leaves a family of four below the poverty line.¹³¹ Georgia’s minimum wage is \$5.15 an hour and many tipped workers in sixteen states earn just \$2.13 in cash wage.¹³² Half of the states that maintain the federal minimum wage and 10 states permitting a \$2.13 cash wage for tipped workers are located in the South, which is disproportionately comprised of Black people.¹³³ Ultimately, occupational segregation frustrates

125. U.S. DEP’T OF HEALTH & HUM. SERVS., *supra* note 66.

126. *Neighborhood and Built Environment*, U.S. DEP’T OF HEALTH & HUM. SERVS., <https://health.gov/healthypeople/objectives-and-data/browse-objectives/neighborhood-and-built-environment> [<https://perma.cc/TZ49-ZRGB>] (last visited Aug 2, 2022).

127. *The State of the Nation’s Housing 2020*, JOINT CTR. FOR HOUS. STUD. OF HARV. U. 1 (2020), https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2020_Report_Revised_120720.pdf [<https://perma.cc/B72R-RKWC>].

128. *Id.*

129. Lerner Michele, *Report: Rental Affordability Declines Nationwide*, WASH. POST (Apr. 14, 2022), <https://www.washingtonpost.com/business/2022/04/14/report-rental-affordability-declines-nationwide/> [<https://perma.cc/AG8A-HQR7>].

130. *Id.*

131. *Consolidated Minimum Wage Table*, U.S. DEP’T OF LAB. (Oct. 1, 2022), <https://www.dol.gov/agencies/whd/mw-consolidated> [<https://perma.cc/DC8D-LYKQ>] (last visited Aug. 2, 2022).

132. *Minimum Wages for Tipped Employees*, U.S. DEP’T OF LAB. (Jan. 1, 2022), <https://www.dol.gov/agencies/whd/state/minimum-wage/tipped> [<https://perma.cc/HZ7F-2MUP>] (last visited Aug. 2, 2022).

133. *Id.*; U.S. DEPT. OF LAB., *supra* note 131.

efforts to improve living conditions for Black women, as stagnant wages fall further behind the cost of living in many U.S. cities.

D. Social and Community Context

The Social and Community Context SDOH recognizes the “connection between characteristics of the contexts within which people live, learn, work, and play, and their health and wellbeing,” and includes discrimination and workplace conditions.¹³⁴ Because occupational segregation reinforces gender-based stereotypes, women are often subjected to hostile workplace conditions that threaten their well-being, including sexual harassment. According to an analysis of Equal Employment Opportunity Commission charges, Black women in segregated occupations disproportionately endure workplace discrimination, retaliation, and harassment. EEOC charges filed between 2012-2016 revealed that Black women filed sexual harassment charges at nearly three times the rate of white, non-Hispanic women.¹³⁵ Industries with the highest numbers of sexual harassment charges are the most segregated by race and gender, including accommodation and food services, retail, health care and social assistance, manufacturing, administration, and waste management.¹³⁶ Black women in these industries also face retaliation on the job, with 35.8% of all sexual harassment claims including a charge of retaliation, as well.¹³⁷ Though occupational segregation is correlated with the rate at which women experience sexual harassment in the workplace, sexual harassment can reinforce occupational segregation by pushing women out of certain industries.¹³⁸ Sexual harassment also has direct health impacts as well, with many victims experiencing anxiety and depression.¹³⁹

CONCLUSION

Though not considered a SDOH, occupational segregation is a clear driver of racial health disparities in the United States. Addressing occupational segregation, and its impacts on the health of workers, requires a multi-pronged approach from both government and industry. First, as noted by Rebecca Dixon, because occupational segregation is a direct outgrowth of race and gender

134. CTR. FOR DISEASE CONTROL & PREVENTION, *supra* note 125.

135. Amanda Rossie et al., *Out of the Shadows: An Analysis of Sexual Harassment Charges Filed by Working Women*, NAT'L WOMEN'S LAW CTR. 2, 5 (2018).

136. *Id.*

137. *Id.* at 9.

138. *Sexual Harassment and the Gender Wage Gap*, NAT'L P'SHIP FOR WOMEN & FAMILIES, 1, 2 (Mar. 2021), <https://www.nationalpartnership.org/our-work/economic-justice/reports/sexual-harassment-gender-wage-gap.html> [<https://perma.cc/6TQB-ZGDT>].

139. *Id.* at 1; *Job and Health Outcomes of Sexual Harassment and How Women Respond to Sexual Harassment*, NAT'L ACADS. SCIS., ENG'G, & MED. 73 (2018), <https://www.ncbi.nlm.nih.gov/books/NBK519461/> [<https://perma.cc/LT4J-L53H>].

discrimination, the federal government must invest in the EEOC to allow more robust enforcement of civil rights protections in the workforce.¹⁴⁰ Moreover, state and local governments must raise and maintain a livable minimum wage and vigorously enforce equal pay laws to ensure people who are working full time are not living below the poverty line. Laws requiring paid sick leave are also crucial to ensuring women can access vital health care services, including preventative care and treatment of chronic disease.

Absent governmental intervention, employers must implement policies that support the health of workers. There are no laws prohibiting firms from raising wages, providing sick leave, or providing employer-sponsored health insurance. Employers must also establish pathways to career growth and development for women of color, especially. Without intentional and targeted investment in opportunities for those most often overlooked for higher status positions, the workforce will remain deeply inequitable, and the health of workers comprised.

140. Kimberly Adams & Maria Hollenhorst, *Here's One Idea for Addressing Occupational Segregation*, MARKETPLACE (Nov. 27, 2020), <https://www.marketplace.org/2020/11/27/heres-one-idea-for-addressing-occupational-segregation/> [<https://perma.cc/AKH3-YHB9>].

