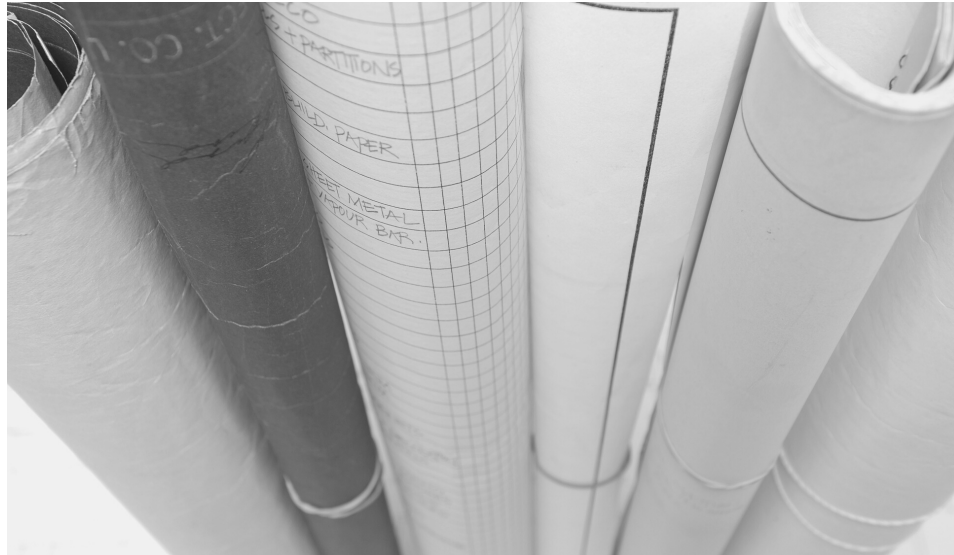


# Blueprint for Birth Justice



**Human rights, meaningful informed consent, more midwives & doulas** are all being recognized as solutions to the problems in perinatal health care in the United States. But there are many structural barriers to these solutions and existing organizations lack the expertise or capacity to fully tackle those barriers.

**That's why Elephant Circle is building a national project for birth justice that will:**

- bring legal and health systems expertise to grassroots birth and reproductive justice organizations across the country and
- resource attorneys from underrepresented groups to develop models of accountability (including successful cases for redress of harms and defense of midwives).

Elephant Circle brings an Intersectional, feminist, reproductive justice, design thinking approach to this work. This approach will help manifest solutions at every step of the way that do not re-inscribe status-quo power dynamics, making true transformation possible.

**We want to work with you.**

Read more about the context and imperative for this work and how we can work together.

**To break down inequities during the perinatal period we need both the HOW and the WHAT of birth justice.**

The "how" involves having strategies for tackling systems of power and oppression and strategies for change and resilience.

The "what" involves having expertise in the perinatal period, health systems, and legal systems.

# Bring legal and health systems expertise to grassroots organizations

The capacity needed to change the regulations, licensure rules, hospital policies and insurance systems that make human rights violations possible during the perinatal period and keep midwives and doulas disenfranchised, does not currently exist.

But there are many groups and individuals who do important work in this area and bring important expertise. They just need more capacity to systematically address these issues, specifically with a reproductive justice approach.

Through coaching and consulting on the "how" and the "what" of birth justice, Elephant Circle can help build the capacity of these organizations, in a way that is decentralized and community-based.

**Without addressing structural barriers, the programs championed by policymakers will not reach their full potential.**

**Or they will be implemented in a way that reinforces status-quo power dynamics.**

## **We provide coaching, consulting, and training on:**

Putting Birth Justice into Practice;  
Substance Use, Laws and Policies in the Perinatal Period;  
Gender and Sexuality in the Perinatal Period;  
Rights During Birth;  
Laws, Rules and Policies In the Perinatal Care Universe;  
Provider Accountability;  
Facility Accountability;  
Grappling with Being Part of a System;  
Follow the Money;  
Consequences of the Medical Industrial Complex;  
Resilience and Theories of Change;  
Thinking Ecologically in the Perinatal Period.

Some midwives are still being criminally prosecuted, even when they have a nationally recognized credential and are practicing in a state with legal recognition. Or they face heightened scrutiny with regard to hospital privileges and licensure. Or they lack equitable reimbursement from insurance and lack of access to professional liability policies that honor their scope of practice and patient human rights.

All of these barriers impact access. Organized midwifery groups strain to address even scope of practice issues legislatively, much less, the malpractice insurance, payment systems and litigation issues that consistently arise.

The increase in demand for doulas as Medicaid providers is outpacing the capacity of organized doula groups to be part of state and federal legislation. This limits the extent to which doula integration can be community-based and limits the extent to which doula programs will be transformative.

Even in states where midwives or doulas have the financial backing to hire lawyers or lobbyists, those professionals in turn, are often not well versed in perinatal care, and risk providing incompetent services - which is why more lawyers, rooted in reproductive justice and representative of their communities are needed.

# Resource attorneys from underrepresented groups

The legal profession as a whole continues to poorly represent the community. Representation varies geographically, so in some places this lack of representation is even more stark.

This limits who can access legal services, what kinds of legal services exist, who our legal leaders are, and what kind of accountability is possible. The economics of the legal profession, midwifery defense and obstetric violence claims make representation for certain harms rare/unlikely/inadequate.

To the extent that some existing organizations have taken on a case related to a forced intervention at birth or defense of a midwife, it is the exception more than the rule and often those organizations have other policy issues that take their full time and attention (like fighting anti-abortion laws and policies). In addition, limited resources are often dispersed inequitably in geographic regions that already have more resources.

This is why a reproductive justice strategy to build capacity for birth justice accountability is necessary. It would foster inequity to merely fund existing lawyers and institutions while these disparities and inequities within the legal system exist. **A strategy is needed that simultaneously builds the capacity for redress of harms while building capacity for more representative lawyers and more representative ways of lawyering.**

Elephant Circle's fiscally sponsored project, the Birth Rights Bar Association is led by POC, LGBTQ, women lawyers and has a diverse and growing membership, with 115 members as of June 2020 from all over the U.S.

BRBA members have brought innovative lawsuits on critical issues in perinatal health care, from challenging state-sponsored and mandated vaginal exams for people who want to give birth out of the hospital, challenging mandated syphilis testing that applies only to people seeking care from community midwives, and suing facilities and providers for unconsented interventions.

Many of them are also changing the contours of legal advocacy by offering both legal and doula services or leveraging legal and policy work on behalf of and in concert with grassroots leaders and organizations.

Instead of creating a centralized legal advocacy organization we are building a decentralized network that can dismantle the status quo in form and content. We envision being able to provide financial assistance to attorneys from underrepresented groups working on birth justice issues, to cover costs like filing or appellate printing fees, or access to research databases or continuing legal education, not to mention covering the cost of their time. With more financial support birth justice is possible.

**Let's work together for Birth Justice.**

## National workforce data indicates that:

36 % of lawyers are women

5% are African American

5% are Hispanic

2.64% are openly LGBT

2% are Asian

2% are Multiracial

1% are Native American

0% are Hawaiian/Pacific Islander

Lawyers with disabilities are "scarce"