

Health Law, Policy & Ethics Seminar Series

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Abortion Law Illiberalism & Feminist Futures

Abstract: This paper examines contemporary conceptions of law and their politics in the abortion field today. The first section revisits the era of abortion law liberalism and describes its key features including: the empowerment of lawyers and judges as primary political actors, political compromise as an inherent feature of abortion law, a focus on the philosophical and legalistic aspects of abortion rights, all with progressive liberalism as its only imagined end. The article tracks, however, an alternative path in explanation of the current state of the field in particular, the repurposing of liberal abortion law and its discourses for illiberal ends. Drawing from larger ideas of autocratic legalism, the paper illustrates through comparative case studies how courts have criminalized abortion behind a human rights façade of health protection and by invocation of the rule of law, and how governments have exploited institutional forms of transplanted abortion laws to defeat their progressive aims. Looking to the future, the paper explores alternatives to both abortion law liberalism and illiberalism and the larger feminist politics of their emergence, including the making of abortion law through democratic institutions and social policy, for example, in the Green Wave reforms, and the unmaking of abortion law through growing transnational feminist care networks rooted in community justice and social order reinvention.



Presenter

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Joanna Erdman's research focuses on sexual and reproductive health and human rights in a transnational context. She has acted as an intervener before various constitutional courts and international bodies, and as an expert advisor with the World Health Organization. Joanna holds a JD from the University of Toronto and an LLM from Harvard Law School and completed a fellowship at Yale Law School.



Presenter

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Paola Bergallo is a lawyer specialized in public law and socio-legal studies from Argentina. Her academic and advocacy work connects law, public policy and social change in the study of gender and health matters, subjects she teaches at the Law and the Government Departments at Universidad Torcuato di Tella in Buenos Aires. She is a global fellow at the Center for Law and Social Transformation of the University of Bergen and a researcher at CONICET. From 2007 to 20018, she was a visiting researcher at the Centro de Estudios de Estado y Sociedad (CEDES), and since 2020, she has directed several research projects on human rights and development matters at FUNDAR. She has taught at universities across the Americas and Spain and has headed projects for UNFPA, PAHO, the Nordic Trust Fund of the World Bank, and FAO. She holds an LLM from Columbia University and a JSM and JSD from Stanford Law School. She has held fellowships from several universities including Harvard, Princeton, and Yale.