



International

Reproductive and Sexual Health Law

Program

2012 ANNUAL REPORT

Faculty of Law, University of Toronto
84 Queen's Park, Toronto, Canada M5S 2C5

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1. REPRODUCTIVE AND SEXUAL HEALTH LAW PROGRAM

Faculty of Law, University of Toronto

The Goals of the International Reproductive and Sexual Health Law Program are:

- To improve the protection and promotion of rights relating to reproductive and sexual health
- To develop greater understanding of how laws and policies can both inhibit and facilitate the protection and promotion of reproductive and sexual health
- To improve interdisciplinary collaboration among specialists, for example, in law, medicine, public health and health policy and service administration, on legal approaches to protect and promote reproductive and sexual health.

We pursue these goals through activities in four components of the Program:

- **Capacity Building:** including graduate scholarship support, the training of students, fellows and visitors, and teaching and curriculum development.
- **Research and Publication:** including publication in peer reviewed journals and other forums, presentations and distribution of research through low cost channels.
- **Advisory and Advocacy Work:** including the Health Equity and Law Clinic, legal advocacy including *amicus curiae* interventions and advisory opinions, reviews and commentaries.
- **Information Resources and Network Building:** including the Program website, Open Educational Resources, and the REPROHEALTHLAW listserv.

Co-Directors

Rebecca J. Cook, J.D., J.S.D, F.R.S.C.
Professor and Chair in International Human Rights Law

Bernard M. Dickens, O.C., Ph.D., LL.D., LL.D. (hon), F.R.S.C.
Professor Emeritus of Health Law and Policy

Coordinator

Linda Hutjens, B.A., M.A., Ph.D.



2. CAPACITY BUILDING

The reproductive and sexual health field has deeply invested in capacity building in biomedical, demographic, social science and health system research. Our Program, while modest in scope, invests in capacity building and training in reproductive and sexual health law. Our capacity building activities seek to support the next generation of legal advocates to develop laws, policies and practices for the protection and promotion of reproductive and sexual health.

In 2012, our successes in Capacity Building included:

- 2 New Master of Laws (LL.M.) Candidates,
- 31 LL.M. and 1 S.J.D. Alumni from 18 countries
- 3 Student Researchers, 1 Alumna Researcher, 1 Student Translator
- 2 International visitor (Belgium and Japan)
- 1 Course (Washington School of Law)
- 1 Bioethics Training Curriculum: Case Studies in Women's Health

2A. TRAINING

2Ai. MASTER OF LAWS (LL.M.) SCHOLARS AND ALUMNI

Graduate Scholarships enable candidates from developing and transitional countries to pursue a Master of Laws (LL.M.) degree at the Faculty of Law, University of Toronto, in reproductive and sexual health law. The Faculty of Law has an endowed scholarship in reproductive and sexual health law and another in women's rights. Additional scholarships are made possible through generous grants. Scholarships are awarded to legally trained candidates in women's rights or health advocacy organizations, professional health associations, international agencies or university law faculties who wish to pursue advanced scholarship in the field.

NEW L.L.M. SCHOLARS, 2012-2013

Jihan Jacob (The Philippines)

Background: Bachelor of Arts in Political Science, a Bachelor of Laws from Ateneo de Naga University in the Philippines, a published article on the scope and power of legislative inquiries, and a wealth of advocacy experience with Philippine NGOs.

Coursework: Human Rights as Law, Ethics and Politics, International Human Rights Law, Health Law, International Human Rights Law and Global Health: The Right to Health in Theory and Practice, Public Health Law, Issues in Criminal Justice, and Alternative Approaches to Legal Scholarship.

Thesis topic: "Spousal violence and divorce in the Philippines"

Internship planned: International Legal Program, Center for Reproductive Rights, New York, USA.

Alejandra Otero Ruiz (Chile)

Background: Universidad de los Andes, Chile, B.A. in History and Law (2007), LL.B. (2010) and Research Assistant at the Human Rights Centre of the Universidad Diego Portales.

Coursework: Litigation and Social Change, Critical Analysis of Law, International Humanitarian Law, Judgment in Law and Politics, Alternative Approaches to Legal, Law and Multiculturalism, and Criminalization in Historical and Theoretical Perspective

Thesis topic: Mapping international arguments for strategic litigation to decriminalize abortion in Chile.

Internship planned at the Open Society Institutes, details to come.

Alumni Profile

Since 1999, 31 scholars (30 LL.M., 1 S.J.D.) have graduated from the Program. A key evaluation measure of the Program's Graduate Scholarships is the long-term successes of our alumni, in particular their contributions to scholarship, education, advocacy and reform.

Geographic Representation

- Africa: 6 Graduates
- Latin America: 12 Graduates
- Asia: 7 Graduates
- Eastern Europe: 6 Graduates

Alumni have published articles based on their theses in the following journals:

- *Annual Survey of Nepalese Law*
- *Ateneo Law Journal*
- *Chicago Journal of International Law*
- *Connecticut Journal of International Law*
- *European Journal of Health Law*
- *ILSA Journal of Int'l & Comparative Law*
- *Int'l Journal of Gynecology and Obstetrics*
- *Journal of Law and Equality*
- *The Lancet*
- *La Revista Argentina de Teoría Jurídica de la Universidad Torcuato di Tella*
- *Medicine & Law*
- *Reproductive Health Matters*

One alumna has published a book with Oxford University Press/India, based on her doctoral thesis.

Post-Graduation Alumni Employment

- **Government**, including: South African National AIDS Council; National Supreme Court of Justice (Mexico).
- **Regional and International Governmental Organizations**, including: Rapporteurship on the Rights of Women, Inter-American Commission on Human Rights; UNHCR-Nepal, UNAIDS, and World Health Organization.
- **Non-Governmental Organizations**, including: Association for Women's Rights in Development (Canada), Center for Reproductive Rights (USA); Center for Reproductive Rights (Asian Regional Office); College of Midwives of Ontario (Canada); Forum for Women, Law and Development (Nepal); International Council of AIDS Service Organizations (ICASO), Ipas (Brazil), and the Soros Foundation (Kazakhstan).
- **Universities and Research Institutes**, including: College of Europe in Brussels (Belgium); Institute of Public Health (Instituto de Saude Coletiva - ISC) at the University Federal of Bahia (Brazil), Universidad Diego Portales (Chile); School of Law, Queen Mary, University of London (England); International Law Society Law College (India); National University of

Juridical Sciences (India); American University in Central Asia (Kyrgyzstan); Ludwig Boltzmann Institute of Human Rights (Macedonia); Obafemi Awolowo University (Nigeria); University of Ibadan (Nigeria); Ateneo Human Rights Center, Ateneo Law School (Philippines), College of Law, University of the Philippines, Faculty of Law, University of Pretoria (South Africa) and the University of the Witwatersrand (South Africa)

2Aii. STUDENT RESEARCHERS AND TRANSLATORS

- Y.Y. Chen, a doctoral student, compiled national judicial decisions for a forthcoming book on abortion
- Sandra Dughman, an alumna from Chile, compiled Latin American judicial decisions for a forthcoming book on abortion
- Jenny Leon, a third-year J.D. student, compiled international decisions for a forthcoming book on abortion
- Andy Sprung, a third-year J.D. student, provided research assistance and co-authored one chapter with Rebecca Cook
- Hugo Leal-Neri, a doctoral student from Mexico, translated our 2009 amicus curiae brief to the Supreme Court of Argentina, and its 2012 judgment, which legalized abortion after rape in Argentina.

2Aiii. INTERNATIONAL VISITORS

Alexandra Timmer, PhD Candidate, Human Rights Centre, Faculty of Law, Ghent University Belgium, visited our faculty to do research on gender stereotyping and international human rights law for the period, October 15 - November 15, 2012, funded by the European Research Council

Prof. Shiyan Sun of the Institute of International Law at the Chinese Academy of Social Sciences, he visited Rebecca Cook June 15, 2012 to discuss his current research on international human rights law.

2B. TEACHING & CURRICULUM DEVELOPMENT

2Bi. TEACHING AT THE FACULTY OF MEDICINE, UNIVERSITY OF TORONTO

“Maternal Mortality and Human Rights” lecture in course on Health and Human Rights, Dalla Lana School of Public Health, University of Toronto, May 8, 2012. (RC)

2Bii. TEACHING AT THE WASHINGTON SCHOOL OF LAW

Women and International Human Rights Law, Academy on Human Rights and Humanitarian Law, Washington School of Law, American University, Washington D.C., USA, May 29 to June 6, 2012. This two-week summer intensive course, co-taught by Elizabeth Abi-Mershed and Rebecca Cook, addresses the challenges of achieving the international legal protection of the human rights of women. It reviews how international and regional human rights conventions, especially the American Convention on Human Rights, have been applied to prevent, punish and remedy the violations of women's rights in different tribunals. It examines how the norm of the prohibition of all forms of discrimination against women has been applied, and how it might be more effectively applied in

particular sectors. It explores how feminist theories, empirical data and narratives might be used to expose women's experiences of injustice. The course aims to go beyond a formalistic understanding of international legal obligations in order to examine different approaches to fostering compliance with the human rights of women in different cultures and religious traditions.

2Biii. CURRICULUM DEVELOPMENT

In 2012, Bernard Dickens, as co-Chair of the FIGO Ethics Committee finalized a new Bioethics Training Curriculum, including 25 Case Studies in Women's Health:

Adolescents and Family Planning	Hysterectomy
Anencephaly and Late-Term Abortion	Illiterate Patients' Informed Consent
Antenatal Care	Involuntary Female Sterilization
Bioethics and Faith-Based Organizations	Multiple Pregnancy
Caesarean Section on Request	Obstetric Fistula
Choice of Home Birth	Refusal of Caesarean Section
Clinical Research	Refusal of Treatment
Conflict of Interest	Reinfibulation
Cost Containment	Social Sex Selection
Egg Donation	Surrogacy
Female Genital Cutting /Mutilation (FGM)	Task Shifting and Maternal Mortality
Hepatitis B Vaccination	Termination of Adolescent Pregnancy
Human Papilloma Virus (HPV) Vaccination	

The next step will be a project to test the materials on students of obstetrics and gynecology.

2Biv. CURRICULUM SHARING

Throughout the year, the Program distributes copies of curricula and teaching materials to assist in the creation of new courses and training programs. The Program Directors also provide advice to colleagues on teaching reproductive and sexual health law. The following syllabi and case studies are now available through the Program website:

- Reproductive and Sexual Health Law Latest Syllabus and Course Description
- Women's Rights in Transnational Law: Latest Syllabus
- Case Studies in Health and Human Rights: A collaborative project of the Health Equity and Law Clinic and the Law and Health Initiative, Open Society Foundation's Public Health Program:
 1. Women living with HIV/AIDS and Forced Sterilization (English & Russian)
 2. Transgender Rights to Gender-Affirming Medical Treatment and Change of Registered Sex on Identity Documents (English & Russian)
 3. Women who Use Drugs and Maternal Care (English & Russian)



3. RESEARCH AND PUBLICATIONS

In 2012, our successes in Research and Publications included:

- 5 articles on Ethical and Legal Issues on Reproductive Health in the *International Journal of Gynecology & Obstetrics*
- 8 other new publications,
- 16 presentations of research
- Rebecca Cook was rated best legal researcher in Canada by Higher Education Associates

3A. Authors' Workshop: "Shifting Paradigms in Abortion Law"

A workshop was held in Toronto, May 14-15, 2012, where authors received feedback from the editors and their fellow authors. The workshop was attended by all 16 authors, 3 of whom (Rebecca Cook, Joanna Erdman and Bernard Dickens) also serve as editors, plus Lourdes Rivera, Bert Lockwood and two research assistants, Y.Y. Chen and A. Sprung. For further details, see Appendix I.

Resource development: In early 2012, the Program prepared the following resources for authors, which were made available at the workshop in May and through Dropbox in July.

- an abortion law bibliography,
- a citation guide,
- annotated tables of domestic and international cases,
- a file of relevant cases, including English translations

3B. INTERNATIONAL JOURNAL OF GYNECOLOGY & OBSTETRICS

Rebecca Cook and Bernard Dickens are associate editors of *Ethical and Legal Issues in Reproductive Health*, a quarterly column in the *International Journal of Gynecology & Obstetrics* (IJGO). The objective of this column is to inform the medical profession about ethical and legal issues in the fields of obstetrics and gynecology and related subjects. Consistently high rankings among IJGO's top-ten downloads and the publication of editions in other languages show that these articles fulfill a profound need for medical professionals. In addition, with kind permission from the publisher, FIGO, we make all of these accessible to scholars and researchers beyond the medical field through the Social Sciences Research Network

The Directors invite contributions from reproductive health advocates, and provide editorial support to authors without extensive experience of publishing in the English language. By the end of 2012, the Program Directors had authored, co-authored or edited 59 articles on Ethical and Legal Issues in Reproductive Health, and enabled many world experts and emerging scholars to contribute as sole or co-authors.

In 2012, we published 5 new articles, of which two were authored by Program affiliates:

"[Applying Human Rights to Improve Access to Reproductive Health Services](#)," by Dorothy Shaw and Rebecca J. Cook, *International Journal of Gynecology and Obstetrics* 119 (2012) S55–S59.

"[State Obligations to Implement African Abortion Laws: Employing Human Rights in a Changing Legal Landscape](#)," by Charles Ngwena, *International Journal of Gynecology and Obstetrics* 119 (2012) 198–202.

"[Harm Reduction, Human Rights and Access to Information on Safer Abortion](#)," by Joanna N. Erdman, *International Journal of Gynecology and Obstetrics* 118 (2012): 83-86.

"[Upholding Pregnant Women's Right to Life](#)," by Rebecca J. Cook and Bernard M. Dickens, *International Journal of Gynecology and Obstetrics* 117 (2012): 90-94.

"[The Legal Status of Emergency Contraception in Latin America](#)," by Martin Hevia, *International Journal of Gynecology and Obstetrics* 116 (2012): 87-90. [Spanish translation](#)

3C. OTHER PUBLICATIONS

Cook, R.J. & V. Undurraga, "Article 12 (Health)" in M. Freeman, C. Chinkin and B. Rudolf eds., *The Convention on the Elimination of All Forms of Discrimination against Women: A Commentary* (Oxford University Press, 2012) 311-333.

Cusack, S, & R.J. Cook, "Combating Discrimination against Women," Chapter 10, in Catarina Krause & Martin Scheinin, eds., *International Protection of Human Rights: A Textbook*, 2nd ed. (Turku: Åbo Akademi University, Institute for Human Rights, forthcoming 2012) 205-234.

Dickens, B.M., "Patients' Rights" in: Ruth Chadwick, ed. *Encyclopedia of Applied Ethics*, 2nd ed., vol. 3. (San Diego: Academic Press, 2012) 370-379.

Erdman, J.N., "Canada: Competing frames of access and authority," in A. Foster and L.L. Wynn eds., *Emergency Contraception: The Birth of a Global Reproductive Health Technology* (Palgrave MacMillan, 2012) 57-78.

Fathalla, M.F. & R.J. Cook "Women, abortion and the new technical and policy guidance from WHO" 90 (2012) *Bulletin of the World Health Organization* 712.

"Legal and Policy Considerations" Chapter 4 in *Safe Abortion: Technical and policy guidance for health systems* (Geneva: World Health Organization, 2012) 87-103. (JE and RC)

Forthcoming

- Cook, R.J. "Gender, Health and Human Rights," reprinted in *Health and Human Rights in a Changing World*, ed. Michael A. Grodin, Daniel Tarantola, George J. Annas, and Sofia Gruskin. (New York: Routledge, 2013) 341-351.
- Cook, R.J. "Human Rights and Maternal Health: Exploring the Effectiveness of the Alyne Decision," *Journal of Law, Medicine and Ethics*, Symposium issue on Global Health Challenges and the Role of the Law 41(1), 2013.
- Cook, R.J. "Foreword," to *Gender and Sexuality in Latin America: Cases and Decisions*, edited by Cristina Motta and Macarena Sáez (Springer, 2013).
- Cusack, S. & R. Cook, "Combating Discrimination Based on Sex and Gender" in *International Protection of Human Rights: A Textbook*, ed. C. Krause and M. Scheinin. Second, revised edition (Turku, Finland: Institute for Human Rights, Abo Akademi University, 2012) 211-242.
- Dickens, B.M. "The Constitutional Court of Colombia on Conscientious Objection" in a new edition of *The Constitutional Court of Colombia decision of 2009*, ed. Monica Roa (Women's Link Worldwide, 2013)
- Iglesia, Cheryl B, Bernard Dickens, Owen Montgomery & Joanna Cain, "Why does cosmetic gynecologic surgery create controversy? A review," forthcoming in the *International Journal of Gynecology and Obstetrics*, 2013.
- Ngwena, C., R.J. Cook and E. Durojaye, "Right to Health: South Africa," in Stephen Marks, ed., *Right to Health in Comparative Perspective* (Cambridge, MA: Harvard School of Public Health, 2012).

3D. PRESENTATIONS OF RESEARCH

"An Historical Introduction to the Supreme Court's Decision on the Assisted Human Reproduction Act," January 17, 2012 (BD).

"Canada's Obligations under International Law regarding Polygamy" Constitutional Roundtable on Polygamy, Faculty of Law, University of Toronto, January 17, 2012 (RC).

"Accountability for Preventable Maternal Death," for a session on Global Health and Vulnerable Populations, National Health Law Conference 2012, Global Health Challenges & the Role of Law, Toronto, Canada, May 4, 2012.(RC)

"New Ethical Dilemmas in Women's Health," joint workshop of the Chinese Medical Association and FIGO Committee for Capacity Building in Education and Training, Beijing China, May 18, 2012 (BD)

"New Ethical Dilemmas in Women's Health," workshop for the Szechuan Provincial Medical Association, held in Chengdu, China, May 21, 2012 (BD)

“Human Rights Litigation and the Reduction of Maternal Mortality,” Georgetown University Law Center, Washington D.C. June 4, 2012 (RC)

"The Legal Scope and Limits of Conscientious Objection by Health Care Providers," Health Law and Policy Seminar Series, Schulich School of Law, Dalhousie University, Halifax N.S., Canada, Sept. 28, 2012

"Protection of Conscience" FIGO Congress, Rome, Italy, October 9, 2012. (BD)

"Macro-Ethical and Micro-Ethical Aspects of Genital Cosmetic Surgery" FIGO Congress, Rome, Italy, October 10, 2012. (BD)

"The FIGO Principles and Practice of Bioethics Curriculum: Case Studies in Women's Health" FIGO Congress, Rome, Italy, October 11, 2012. (BD)

"The Stigmatic Harms of Criminal Abortion Laws," Health Law and Policy Seminar Series, Schulich School of Law, Dalhousie University, October 12, 2012. (RC)

"Conscientious Commitment," FIAPAC Congress, Edinburgh, UK, October 19, 2012 (BD)

"Stereotyping Women in the Abortion Context" FIAPAC Congress, Edinburgh, UK, October 19, 2012 (RC)

"Rights and Responsibilities," FIAPAC Congress, Edinburgh, UK, October 20, 2012 (BD)

"Compulsory, Mandatory or Voluntary Immunizations: The Legal Implications" [including vaccination of schoolchildren against human papilloma virus (HPV)], 10th Canadian Immunization Conference, Vancouver, B.C. Canada, December 5, 2012. (BD)

"Conscientious Objection and Conscientious Commitment," Program of Ethics and Public Policies in Human Reproduction, Universidad Diego Portales, Santiago, Chile, December 13, 2012. (BD)

"International Human Rights to Found a Family without Discrimination due to Disability" Program of Ethics and Public Policies in Human Reproduction, Universidad Diego Portales, Santiago, Chile, December 13, 2012. (BD)

3E. DISSEMINATION OF PUBLICATIONS

The Program is committed to ensuring that our research and publications are widely accessible. We support the translation and reprinting of our publications and seek low cost distribution channels.

3Ei. “ARTICLE 12” (Health)

by Rebecca Cook and Veronica Undurraga, in *The Convention on the Elimination of All Forms of Discrimination against Women: A Commentary*, ed. M. Freeman, C. Chinkin and B. Rudolf (Oxford University Press, 2012) 311-333. Hardcover.

This volume is the first comprehensive commentary on the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol. The chapter on CEDAW Article 12 (Health) explores state obligations to “eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning” and to “ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.” The chapter explains how Article 12 has been applied to date, and serves as an interpretive guide to how the article could be applied to discriminatory health situations.

The Program promoted the book on its blog and circulated an electronic version of the chapter. Due to the high price of the hardcover, it purchased only 5 discounted copies for distribution to strategic organizations. A paperback version will be released in June 2013.

3Eii. *GENDER STEREOTYPING: TRANSNATIONAL LEGAL PERSPECTIVES*

Complimentary copies of *Gender Stereotyping: Transnational Legal Perspectives* (University of Pennsylvania Press, 2010), purchased using the authors’ discount, continued to be distributed to libraries in international organizations, non-governmental organizations, and academics in developing countries.

In 2012, the Program sent copies to:

- the Center for Reproductive Rights (10 copies)
- CEDAW (8 copies for new members)
- a conference of Asian NGOs held at the University of South Wales (20 copies)
- a conference of Asian human rights representatives, organized by the Australian Human Rights Commission (10 copies)
- the African Commission on Human and People’s Rights
- the Irish Family Planning Association
- the Office of the UN High Commissioner for Human Rights, and
- UN Women offices around the world

The Spanish edition, published last year, was distributed as follows:

- Center for Justice and International Law (CEJIL) (15 copies)
- Latin American law professors and NGO advocates (10 individual copies)
- Ipas Bolivia (5 copies)
- Inter-American Commission of Human Rights (2 copies)

3Eiii. *REPRODUCTIVE HEALTH AND HUMAN RIGHTS*

Reproductive Health and Human Rights: Integrating Medicine, Ethics and Law (Oxford University Press, 2003) by Rebecca Cook, Bernard Dickens and Mahmoud Fathalla. Although published nine years ago, the book is still used to equip health care providers and administrators to integrate ethical, legal, and human rights principles into protection and promotion of reproductive health, and to inform lawyers and women's health advocates about aspects of medicine and health care systems that affect reproduction. The full text is now available in English, French, Spanish, Portuguese and Chinese, and

the case studies are online in Arabic, along with commentary by experts in Islamic and Coptic ethics, thanks to the Egyptian Fertility Care Foundation (EFCF).

In 2012, the Program distributed copies to:

- The African Commission on Human Rights (10 English, 5 French and 2 Portuguese)
- African Court of Human and People's Rights (2 English, 2 French & 2 Portuguese)
- a regional conference in Katmandu, Nepal organized by the Asian Regional Office of the Center for Reproductive Rights (10 English)

3Eiv. ELECTRONIC DISTRIBUTION

Our Program facilitates wider access to our publications through electronic publication by means of:

- the *Social Science Research Network* (SSRN) (www.ssrn.com), which allows authors to upload and readers to download publications free of charge. In 2012, we uploaded 7 new full text articles and abstracts, with permission from the publishers. Several of our submissions were among the top 10 downloads in their subject area. Since 2005, with permission from our publishers, we have posted over 77 published papers on SSRN that were not accessible elsewhere.

3Ev. PORTUGUESE PUBLICATION

[Gender Stereotypes in International Courts: the challenge of equality: interview with Rebecca Cook] “Estereótipos de gênero nas cortes internacionais – um desafio à igualdade: entrevista com Rebecca Cook” by Debora Diniz, in 19.2 *Revista Estudos Feministas*, 451-462, May 2012 (RC). [Online in Portuguese](#).

3F. EDITORIAL ADVISORY BOARDS

Rebecca Cook and Bernard Dickens serve on the following editorial boards, which provide opportunities to encourage and support innovative scholarship in reproductive and sexual health law and ethics.

American Journal of Law and Medicine (BD)

American Journal of Public Health, Editor for Health Policy and Ethics (BD)

Bibliography of Bioethics, *Kennedy Institute of Ethics*, *Georgetown University* (BD)

BMC Medical Ethics (BD)

HIV/AIDS Policy and Law Review, Canadian HIV/AIDS Legal Network, (RC)

Human Rights Quarterly (RC)

International Journal of Gynecology and Obstetrics, Law and Ethics co-editors (RC & BD)

Journal of Ethics and Mental Health (BD)

Journal of Law, Medicine and Ethics (BD)

Journal of Middle East Law and Governance (RC)

Medical Law International (BD)

Medicine and Law (RC & BD)

New Zealand Yearbook of International Law, University of Canterbury, New Zealand (RC)

Reproductive Health Matters (RC)



4. ADVISORY AND ADVOCACY WORK

The Program provides ongoing legal advisory and advocacy support to government, international agencies, non-governmental organizations and civil society advocates. While the specific legal and policy goals of our advocacy and advisory work vary according to developments in the field, the general objective of our work is to strengthen the capacity of the field to protect and promote human rights relating to reproductive and sexual health.

In 2012, our Advocacy and Advisory Work included:

- 3 *Amicus Curiae* briefs (re Bolivia, Poland and Costa Rica)
 - 9 statements on professional ethics for obstetricians and gynecologists
 - 15 appointments on advisory boards and committees
-

4A. ADVOCACY WORK

4Ai. AMICUS CURIAE BRIEFS:

In 2012, the Program contributed to *Amicus Curiae* briefs in the following cases:

Bolivia - unconstitutionality of abortion laws - Case No. 320-2012-01-AJA, an abstract action of the unconstitutionality of certain articles in the Bolivian Penal Code regarding abortion] presented by a Member of the Legislative Assembly of Bolivia.

Our 12-page *amicus curiae* brief, submitted September 15, 2012, was prepared by Oscar Cabrera, Paula Ávila Guillen, Ana Ayala Wang and Rebecca Cook, argued that the Penal Code articles in question present serious concerns for women in Bolivia at the level of health and basic human rights guaranteed by the Constitution of Bolivia and a number of international human rights treaties ratified by Bolivia.

P. and S. v. Poland – This *amicus curiae* brief, written on behalf of FIGO, was submitted to the European Court of Human Rights February 3, 2012. The case concerns a raped 14-year-old girl who was denied access to timely emergency contraception, and to an abortion to which she was also legally entitled. The brief provides the Court with current ethical guidelines on gynecological care of adolescents and youth, with particular regard to patient-doctor confidentiality; confidentiality in general; provision of emergency contraception; and the use of conscientious objection within the health care field. (BD)

Gretel Artavia Murillo y Otros (“Fecundación in Vitro”) v. Costa Rica, Inter-American Court of Human Rights, *amicus* brief submitted September 19, 2012, prepared by Lilian Sepúlveda and Monica Arango Olaya of the Center for Reproductive Rights, and Rebecca Cook and Bernard Dickens of the International Reproductive and Sexual Health Law Program.

The 16-page brief demonstrates that Costa Rica’s current prohibition of *in vitro* fertilization (IVF) violates the following obligations under the American Convention on Human Rights:

- the right to found and raise a family (Article 17)
- the right to be free from arbitrary interference with private and family life (Article 11)
- the right to freedom of religion (Article 12)
- the right to be free from discrimination on grounds of disability, health status, sex or gender, which cannot be justified in a free and democratic society (Article 1(1))

4Aii. RESULTS OF AMICUS CURIAE BRIEFS

Gretel Artavia Murillo y Otros (“Fecundación in Vitro”) v. Costa Rica, Inter-American Court of Human Rights Judgment of Nov. 28, 2012 concluded that Costa Rica’s ban on *in vitro* fertilization violates human rights of infertile couples. Costa Rica must lift its ban on IVF, provide psychological support to complainants, and train judiciary employees on human and reproductive rights. Decision online in Spanish: [116 page judgment](#)
English summary of Decision by the Center for Reproductive Rights: [press release](#)

Argentina: “F, A. L. s/ Medida Autosatisfactiva.” The Supreme Court’s decision, issued March 13, 2012, legalized abortion after rape, irrespective of mental capacity without judicial authorization being needed. Our 2010 amicus curiae brief in Spanish discussed abortion in cases of rape, and Argentina's obligation to incorporate into its domestic law numerous international norms protecting human rights. In 2012:

- Hugo Leal-Neri, a doctoral candidate and Fellow of our Program, translated our Spanish amicus brief into English. It is now available on our website in [English](#) and [Spanish](#).
- Hugo Leal-Neri also translated the decision into English. This unofficial translation is now available online through our website: [English translation of decision](#). [Original decision](#).

Z. v. Poland: This Nov 13, 2012 decision by the European Court of Human Rights, concerned a woman who had died after being refused diagnostic care and treatment for disease due to pregnancy. The Court failed to rule that in this case Poland violated its obligations under the European Convention on Human Rights. Our amicus brief had addressed international standards of international human rights law regarding rights of pregnant women to access healthcare without discrimination, which should be reflected and applied in law and policy of European member states. [Decision online](#); [Analysis by the Center for Reproductive Rights](#);

4B. ADVISORY WORK

Center for Reproductive Rights (CRR)

Rebecca Cook continued to serve on the Board of CRR and its International Litigation Advisory Committee.

International Federation of Gynecology and Obstetrics (FIGO)

Bernard Dickens co-chaired the Committee on Ethical Aspects of Human Reproduction and Women’s

Health, which held meetings March 22-23, 2012 in London, U.K.

In 2012, the Ethics Committee finalized and published ethical statements and recommendations on

- Cross border reproductive services
- Embryonic cord blood banking
- HIV infection and reproduction
- HIV and fertility treatment
- Management of severe congenital anomalies
- Planned home birth
- Prenatal diagnosis and screening
- Safe motherhood
- Task-shifting in obstetric care

In early 2012, Bernard Dickens also updated the FIGO handbook *Ethical Issues in Obstetrics and Gynecology* previously published in 2009. The new edition was published and distributed to doctors in October 2012.

In May 2012, Bernard Dickens attended the FIGO Executive Board meeting in Beijing, China, to present the new and updated Ethics guidelines and new Bioethics Training Curriculum for gynecologists and obstetricians. During the same meeting, he also led an educational workshop entitled, “New Ethical Dilemmas in Women's Health” (BD)

Open Society Foundations – Law and Health Initiative, Technical Advisory Committee (TAC) - Joanna Erdman has been an active member of TAC since 2007.

Open Society Foundations - Public Health Program, Global Health Advisory Committee (GHAC) - Joanna Erdman has been an active member of this Committee since 2010.

World Health Organization – Safe Abortion Guidelines Group - Rebecca Cook and Bernard Dickens provided ongoing advisory services on the draft chapter on Legal and policy issues in the WHO’s revision of the safe abortion guidance. This guidance was published and distributed in 2012.

World Health Organization - Gender and Rights Advisory Panel – In 2012, Joanna Erdman continued to attend meetings of the Gender and Rights Advisory Panel having begun her 3-year term last summer. The panel examines the work of the Department of Reproductive Health and Research from a gender and rights perspective, and provides recommendations on these issues for the Department’s future work.

4Civ. ADVISORY APPOINTMENTS

Governmental and Inter-governmental Organizations:

- Standing Committee on Ethics, Canadian Institutes of Health Research (BD)
- World Health Organization, Advisory Committee, Safe Abortion Guidelines (RC)

Non-Governmental Organizations

- Center for Reproductive Rights, New York, NY, Member of Board of Directors and Member, International Litigation Advisory Committee (RC)

- Center for the Study of State and Society (CEDES) and the Interdisciplinary Center for the Study of Public Policies (CIEPP), International Advisory Board, project on “Access to Legal Abortion in Argentina” (RC)
- Human Rights Watch, Advisory Committee of the Women's Rights Division (RC)
- Profamilia Servicios Legales Para Mujeres (Profamilia Legal Services for Women) Bogotá, Colombia, Advisory Board (RC)
- Women’s Link Worldwide, Advisory Council Member (RC)

Professional Associations

- International Federation of Gynaecologists and Obstetricians (FIGO), Committee on Ethical Aspects of Human Reproduction and Women's Health, Co-Chair (BD)
- International Society for Stem Cell Research, Ethics and Public Policy Committee (BD)
- World Association for Medical Law, Member, Vice President, Board of Governors (BD)

Universities:

- Abo Akademi University, Finland, Institute for Human Rights, Advisory Board (RC)
- American University, Washington College of Law, Academy on Human Rights and Humanitarian Law, Advisory Board (RC)
- University of Chile, Faculty of Law, Human Rights Center, Int’l Advisory Committee (RC)
- University of Cincinnati, College of Law, Urban Morgan Institute for Human Rights, Advisory Board (RC)
- University of Connecticut, Human Rights Institute, Board of Advisors (RC)



5. INFORMATION RESOURCES AND NETWORK BUILDING

In 2012, our successes in Information Resources and Network Building included:

- Program Website (23 webpages)
- 13 additions to our Legal Commentary Series on the web
- 25 features on the blog
- 3 course syllabi and 1 textbook available online
- 592 subscribers to our Reprohealthlaw blog and listserv.

5A. PROGRAM WEBSITE:

Our website, [online here](#), provides accessible resources on professional training, teaching and curriculum development, publications, the HEAL Clinic, advisory and advocacy work, information resources and event listings. It was founded in 2007.

5B. OPEN EDUCATIONAL RESOURCES

In harmony with the Open Educational Resources movement, the Program is committed to providing high quality educational materials and resources that are universally accessible, free of charge, and can be modified or imitated to suit different needs and contexts.

Curriculum:

- Reproductive and Sexual Health Law syllabus, licensed under Creative Commons
- Women's Rights in Transnational Law syllabus, 13 week course, licensed under Creative Commons
- Women and International Human Rights Law, 2-week intensive course, description

Textbook:

- *Reproductive Health: Case Studies with Ethical Commentary*, links to English, French and Chinese editions)

Research resources:

- The Women's Human Rights Resources (WHRR) database, an annotated bibliography, updated to the end of 2011
- The Francophone Women's Human Rights (SIFDF) website and database, and
- Publications webpages that provide links to full texts of articles

5C. REPROHEALTHLAW Blog, Listserv and Social Media

Since 2002, the REPROHEALTHLAW listserv has been an important tool for the recruitment of Program scholars, the support of alumni, and the development of relationships between scholars/fellows and partner institutions. Listserv subscriptions include our reproductive health graduates, professors, donors, researchers, staff of NGOs and international organizations, graduates of the Swedish Association for Sexuality Education (RFSU)'s African/Asian training program, students

and graduates from the University of the Free State in South Africa and Georgetown's Leadership and Advocacy for Women in Africa (LAWA) Program, lawyers, healthcare professionals and journal editors.

The REPROHEALTHLAW listserv and blog now represent an international interdisciplinary network of faculty, students, graduates and friends of the Program, providing our contacts with specialized legal resources, including:

- Announcements and Commentaries on new legal developments
- Academic resources on abortion law
- Abstracts of noteworthy publications
- Summaries of recent decisions by courts and international bodies
- Information about new courses, conferences and calls for papers
- Jobs and scholarships in the field of reproductive and sexual health and women's rights

Reprohealthlaw Blog and other Social Media: Launched in 2011, the Program maintained three user-friendly and universally accessible versions of the listserv throughout the year. In 2012, the new Reprohealthlaw blog issued 38 new posts. In 2012, it was viewed through the web almost 5400 times from 120 countries; 341 new subscribers signed up to receive copies of each new posting by email. Our new Twitter and Facebook accounts, which alert subscribers to new blog postings, had attracted 23 new followers and 20 new likes respectively. In total, our listserv and blog finished the year with 592 subscribers.

Listserv Migration: In 2012, the Program asked all listserv subscribers to migrate to the blog. By year end, subscriptions had declined from 529 to 132, a decrease of 397, while blog subscribers had only increased by 352, a difference of 45 longstanding subscribers, some of whom may have resisted our technological upgrade, though we have heard no complaints. Fortunately, our "reprohealthlaw" pages are easy to find through Google, and back-issues can also be viewed on the web.

Blog: <http://reprohealthlaw.wordpress.com/>

Facebook page: <http://www.facebook.com/reprohealthlaw>

Twitter page: <https://twitter.com/#reprohealthlaw>

5D. LEGAL COMMENTARY SERIES AND BLOG FEATURES

Legal Commentary series: For years, the REPROHEALTHLAW listserv and now the blog, have been used to circulate commentaries on international legal developments by Program scholars, fellows and alumni. Since 2009, we have posted all original commentaries by students and fellows on our website for public access on our Reprohealthlaw Commentaries webpage, [online here](#). In 2012, we posted 13 commentaries and publications by graduates, asterisked below, that had been featured on the blog.

Blog Features: In 2012, our Reprohealthlaw Blog featured 25 publications and commentaries regarding court decisions and legal developments

- Abortion laws, trends, and unmet contraception need [view here](#)
- Abortion Restrictions, Involuntary Sterilisation, and the Convention on Torture or Cruel Inhuman or Degrading Treatment [view here](#)
- Africa: State Obligations to Implement African Abortion Laws [view here](#)
- African Protocol and access to abortion [view here](#)
- Argentina: Abortion legalized for rape victims* [view here](#)
- Australia: Prisoner access to IVF [view here](#)
- Brazil: Landmark Decision on Fetal Anencephaly* [view here](#)
- Canada: gender stereotyping and woman-protective anti-abortion initiatives* [view here](#)
- CEDAW commentary, including “Article 12” (Health) [view here](#)
- CEDAW: Human Rights accountability for maternal death and unsafe abortion* [view here](#)
- Colombia: Constitutional Court upholds abortion rights* [view here](#)
- Emergency Contraception in Latin America* [view here](#)
- Forced & Coerced Female Sterilization in Europe* [view here](#)
- Harm Reduction, Human Rights & Access to Information on Safer Abortion [view here](#)
- Poland: ECtHR decision *P. and S. v Poland*: delayed access to abortion after rape* [view here](#)
- Nigeria: HIV/AIDS in the Military* [view here](#)
- Nigeria: HIV, Prostitution, and Drug Use* [view here](#)
- Philippines: CEDAW decision re *Vertido*: Philippines rape case* [view here](#)
- Slovakia: ECtHR ruling: *I.G. and others v. Slovakia*, Forced Sterilization of Roma Women* [view here](#)
- Slovakia: ECtHR: two decisions re forced sterilization of Roma women, *V.C. v. Slovakia*, *N.B. v. Slovakia** [view here](#)
- Sri Lanka: misoprostol v. unsafe abortion [view here](#)
- Stereotyping: New e-list on Stereotyping [view here](#)
- World Health Organization: new “Safe Abortion: Technical and Policy Guidance” [view here](#)
- Upholding Pregnant Women’s Right to Life [view here](#)

*Cross-posted to our Legal Commentaries webpage.