

CONSCIENTIOUS OBJECTION
Articles and projects related to the
International Reproductive and Sexual Health Law Program,
Faculty of Law, University of Toronto

[Program website](#) [Reprohealthlaw Blog](#) [@Reprohealthlaw](#) reprohealth.law@utoronto.ca

Publications:

Bernard M. Dickens, “The Right to Conscience,” in *Abortion Law in Transnational Perspective: Cases and Controversies*, ed. Rebecca J. Cook, Joanna N. Erdman and Bernard M. Dickens (University of Pennsylvania Press, 2014), 210-238. [Book](#)
[Abstract in English.](#) [Resumen en Español.](#)

Bernard M. Dickens, “Jurisprudence from the Constitutional Court of Colombia on Conscientious Objection” in *T-388/2009. Conscientious Objection and Abortion: A Global Perspective on the Colombian Experience*, ed. Women’s Link Worldwide and the O’Neill Institute for National and Global Health, 2014. [Online in English and Spanish.](#)

Bernard M. Dickens, “Objeción de conciencia y compromiso en conciencia,” in *Bioética, reproducción y familia*, ed. Fernando Zegers H. & Sofía P. Salas, (Santiago: Ediciones Universidad Diego Portales, 2014), 145-182.

Bernard M. Dickens, "[Objeción de Conciencia](#)," *Discusiones sobre Genero, Sexualidad y Derecho: Taller 2010*, ed. Alejandro Madrazo, Estefanía Vela, y Cecilia Garibi. (Mexico D.F.: Fontamara, 2013) 135-154.

Bernard Dickens & Rebecca Cook, “Conscientious Commitment to Women’s Health.” *International Journal of Gynecology and Obstetrics* 113.2 (2011): 163-166
<http://papers.ssrn.com/abstract=1832549>

Bernard Dickens, “The Ethical Responsibilities of Conscience” *IPPF Medical Bulletin* 43.4(Dec 2009): 3-4.
https://issuu.com/ippfresources/docs/medical_bulletin_december09

Bernard Dickens, “Unethical Protection of Conscience: Defending the Powerful against the Weak.” *Virtual Mentor* 2009;11:725-729.
<http://virtualmentor.ama-assn.org/2009/09/oped2-0909.html>

Bernard Dickens, “Conscientious Objection and Professionalism,” Editorial in *Expert Review Obstetrics and Gynecology* 4(2), 97-100 (2009)
<http://www.expert-reviews.com/doi/pdf/10.1586/17474108.4.2.97>
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1372865

Bernard Dickens, “Legal Protection and Limits of Conscientious Objection: When Conscientious Objection is Unethical” *Medicine and Law* (2009) 28:337-347.
<http://ssrn.com/abstract=1483363>

Rebecca J. Cook, Monica Arango Olaya and Bernard M. Dickens, "Healthcare Responsibilities and Conscientious Objection" *International Journal of Gynecology and Obstetrics* 104 (March 2009) 249-252.

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1337165

Bernard Dickens, "Conscientious Commitment" *The Lancet* 371 (April 12, 2008): 1240-41. (PDF)

Rebecca Cook and Susannah Howard, "Accommodating Women's Differences under the Women's Anti-Discrimination Convention," *Emory Law Journal* 56 (2007) : 1039-1092, especially 1085-1087.

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1029375

Bernard Dickens and R.J. Cook, "The Growing Abuse of Conscientious Objection" op-ed in *Virtual Mentor: Ethics Journal of the American Medical Association*, May 2006, 8(5): 337-340.

http://www.ama-assn.org/ama1/pub/upload/mm/384/oped1_16185.pdf

B.M. Dickens, R.J. Cook and E. Kismodi, *Reproductive Health: Case Studies with Ethical Commentary*. (Haifa: UNESCO Chair for Bioethics, 2006)

<http://medlaw.haifa.ac.il/index/main/4/ReproductiveHealth.pdf>

pp 15-17 (image 25ff in the PDF) and pp 59-60 (image 69ff in the PDF) contains two cases on conscientious objection.

Bernard Dickens, "Conscientious Objection: A Shield or a Sword?" in S.A.M. McLean, ed. *First Do No Harm: Law, Ethics and Healthcare* (Aldershot, UK: Ashgate, 2006) 337-351. (PDF)

Bernard Dickens, "Ethical misconduct by abuse of conscientious objection laws" *Medicine & Law* 25 (2006): 513-522 (PDF)

Rebecca Cook and Bernard Dickens, "Access to Emergency Contraception" (2003) 25(11) *Journal of Obstetrics and Gynaecology of Canada* 914-916 (addresses conscientious objection by healthcare professionals on pages 915-916).

Rebecca Cook and Bernard Dickens, Letter in Response to a Letter to the Editor,(2004) 26(2) *Journal of Obstetrics and Gynaecology of Canada* 112. (clarifies conscientious objection by healthcare professionals).

Rebecca Cook, Bernard Dickens and Mahmoud Fathalla, *Reproductive Health and Human Rights: Integrating Medicine, Ethics and Law* (Oxford: Oxford University Press, 2003) – includes an index entry on Conscientious objection.

http://www.law.utoronto.ca/faculty_content.asp?itemPath=1/3/4/0/0&contentId=1105

Bernard Dickens, "Reproductive Health Services and the Law and Ethics of Conscientious Objection," *Medicine and Law* 20 (2001), pp. 283-293. (PDF)

Spanish translation Servicios de Salud Reproductiva y el derecho y etica de la objecion de conciencia, *Revista Argentina de Teoria Juridica* 13 (2009).

http://www.utdt.edu/ver_contenido.php?id_contenido=2455&id_item_menu=4082

Bernard M. Dickens and Rebecca J. Cook, "The Scope and Limits of Conscientious Objection," *International Journal of Gynecology and Obstetrics* 71(2000), pp. 71-77.

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=946461

Articles and theses by our graduates and fellows:

Casas, Lidia, "Invoking Conscientious Objection in Reproductive Health Care: Evolving Issues in Latin America" LL.M. thesis, University of Toronto, 2005. Abstract online at:

http://www.law.utoronto.ca/visitors_content.asp?itemPath=5/12/12/0/0&contentId=1621

click on #16.

Casas, Lidia, "Invoking conscientious objection in reproductive health care: evolving issues in Peru, Mexico and Chile, in *Reproductive Health Matters* 17.34 (Nov 2009): 78–87 [Abstract](#)

[Full-Text HTML](#) [PDF](#)

Lamackova, Adriana "Conscientious Objection in Reproductive Health Care: Analysis of Pichon and Sajous v. France." *European Journal of Health Law*, 15.1(2008): 7-43 The article is no longer freely available online but the author can be reached at: adriana.lamackova@utoronto.ca

It is based on her thesis, abstracted online at:

http://www.law.utoronto.ca/visitors_content.asp?itemPath=5/12/12/0/0&contentId=1621

Uberoi, Diya & Beatriz Galli, "Refusing Reproductive Health Services on Grounds of Conscience in Latin America: Challenging policies and practises based on human rights standards" in *SUR International Journal on Human Rights*, issue 24 (Dec 2016) [special issue on "Women: Movements, Successes and Obstacles ([Overview](#))] online:

[English edition](#) [Spanish edition](#). [Portuguese edition](#)

Zampas, Christina, "Legal and ethical standards for protecting women's human rights and the practice of conscientious objection in reproductive healthcare settings," in special issue "Conscientious Objection to the provision of reproductive healthcare, *International Journal of Gynaecology and Obstetrics*, vol 123, Supp. 3 (Dec. 2013) [online in this special issue](#).

Zampas, Christina and Ximena Andión-Ibañez, "Conscientious Objection to Sexual and Reproductive Health Services: International Human Rights Standards and European Law and Practice," *European Journal of Health Law* 19 (2012) 231-256. [Online here](#).

Amicus Curiae Brief **{NEW}**

Amicus curiae brief on conscientious objection by Professor Bernard Dickens submitted to the Tribunal Constitucional of Chile, August 10, 2017 [English PDF](#) [Spanish PDF](#)

Commentaries published on REPROHEALTHLAW Listserv or Blog since 2002

[Spain: Health Service held accountable for objectors' abortion delays and loss of uterus.](#) *Zurich Insurance PLC, Sucursal en España v. Doña Encarnacion y don César y Servicio Galego de Saude*, Sentencia 00392/2017, Apelación 43/17 (High Court of Galicia at Coruña, Spain) [Decision in Spanish](#). English summary by lawyer Francisca Fernández Guillén. Reprohealthlaw Blog, October 30, 2017 **{NEW}**

[Italy: Widespread conscientious objection violates right to health and right to work in dignity](#) *International Planned Parenthood European Network v. Italy* (2014), Complaint No. 87/2012, decision published 10 March 2014 (European Committee on Social Rights, Strasbourg, France) [Decision online](#) and *Confederazione Generale Italiana del Lavoro (CGIL) v. Italy* (2016), Complaint No. 91/2013 (European Committee on Social Rights, Strasbourg, France) [Decision online](#). (summarized by Tania Pagotto), Reprohealthlaw Blog, October 30, 2017 **{NEW}**

[HR expert: Conscientious objection may not hinder lawful abortions](#), [about the first International Convening on Conscientious Objection and Abortion, held August 1-3, 2017 in Montevideo, Uruguay, by Christina Zampas, Reprohealthlaw Blog September 29, 2017 **{NEW}**]

[UK ruling: Indirect participants cannot invoke conscientious objection.](#) Greater Glasgow Health Board v Doogan & Anor decision of December 17, 2014. [2014] UKSC 68, [2015] SLT 25. ("Scottish midwives" case, summarized by Michelle Hayman), Reprohealthlaw Blog, March 26, 2015. **{NEW}**

Anna Pippus, "New Zealand: Conscientious Objectors Need Not Refer, but they must inform -- case of *Hallagan and Anor v Medical Council of New Zealand*, HC WN CIV-2010-485-222 [2 December 2010] Reproductive and Sexual Health Law Listserve, April 24, 2011

http://www.law.utoronto.ca/documents/reprohealth/LS060_NZ_conscientious_objection.pdf

Mónica Arango, "Colombia: Constitutional Court – Conscientious Objection decision 2008," Reproductive and Sexual Health Law Listserve, April 24, 2011. [Online here](#). See also her article, mentioned above, in the *International Journal of Gynecology and Obstetrics*. Decision says clearly that there are limits to a doctor's right to conscientious objection. It is a very helpful case.

Jarmila Lajcakova, "Opinion No 4-2005: The Right to Conscientious Objection, Concordats between EU Member States and the Holy See," Reproductive and Sexual Health Law listserv January 6, 2006

http://www.law.utoronto.ca/documents/reprohealth/LS008_Conscientious_Objection.doc

Adriana Lamackova, summary of "Pharmacists and Conscientious Objection Scope Note 46," *Kennedy Institute of Ethics Journal* 16.4 (December 2006): 379-396. Reproductive and Sexual Health Law listserv, January 22, 2007. [Summary of Scope Note](#). [Scope Note](#).

Recommended Further Reading:

“Drawing the Line: Tackling tensions between religious freedom and equality.” International Network of Civil Liberties Organizations, 2015. [56-page report](#)

“Ethical Guidelines on Conscientious Objection,” FIGO (International Federation of Gynecology and Obstetrics) in *Reproductive Health Matters* 14.27 (May 2006):148–149.

[English PDF online](#)

Also in: [FIGO Ethical Issues in Obstetrics and Gynecology](#), 2015 pp. 37-39

French “Directives éthiques sur l’objection de conscience” pp 220-222.

Spanish “Directrices éticas sobre la objeción de conciencia” pp. 416-418

“Ethical Guidelines on Conscientious Objection in Training” (2014) pp 172- 274 in :

[FIGO Ethical Issues in Obstetrics and Gynecology](#), 2015

French “Pratiques d’éthique sur l’objection de conscience lors de la formation,” pp. 367-369.

Spanish “Objeción de conciencia durante el entrenamiento, pp. 564-566.

[Africa] “Conscientious Objection to Abortion and Accommodating Women's Reproductive Health Rights: Reflections on a Decision of the Constitutional Court of Colombia from an African Regional Human Rights Perspective,” by Charles G Ngwena, *Journal of African Law* 58.2 (October 2014) 183 - 209 [now online here.](#) **{NEW}**

[Brazil] “Conscientious objection, barriers, and abortion in the case of rape: a study among physicians in Brazil” by Debora Diniz, Alberto Madeiro, Cristiano Rosas, in *Reproductive Health Matters* 22.43 (May 2014): 141-148.
[Abstract](#) [Full-Text HTML](#) [PDF](#)

[Colombia] “Obstacles and challenges following the partial decriminalisation of abortion in Colombia” by Eduardo Díaz Amado, Maria Cristina Calderón García, Katherine Romero Cristancho, Elena Prada Salas, Eliane Barreto Hauzeur, *Reproductive Health Matters* 18.36 (Nov 2010): 118–126

[Abstract](#) [Full-Text HTML](#) [PDF](#)

[Ireland] *McGee v. Attorney General*, [1974] I.R. 284 (Supreme Court of Ireland), which had overturned a criminal ban on the importation of contraceptives into Ireland. [Actual decision online](#). (Supreme Court explicitly refused to expand rights to freedom of conscience (referring to religion only) to include freedoms regarding non-religious issues like whether or not to have children.) Emilie Cloatre and Máiréad Enright write the commentary on Enright’s imaginative rewriting of the Irish Supreme Court’s decision in the *McGee* case, where Enright J. reached the same decision but for different reasons. They explore the ways that Enright J. acknowledged Mrs. McGee’s experiences in trying to access effective contraception to enable her to plan her family in ways that did not seriously risk her life. Significantly, Enright J. elaborated how Mrs.

McGee’s right to freedom of conscience was a basis for overturning the importation ban: “There can be no clearer example, in my view, of the exercise of constitutionally protected conscience than Mrs. McGee’s deliberate breach of a provision of the criminal law that imposes a particular set of moral principles on the citizenry.”

“Tasmania’s Reproductive Health (Access to Terminations) Act 2013: An analysis of conscientious objection to abortion and the ‘obligation to refer,’” by Ronli Sifris
Journal of Law and Medicine 22(2015): 900-914

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2595467

“Health Care Refusals: Undermining Quality Care for Women.” National Health Law Program, USA, 2010, [84-page report](#).

"Conscience Wars in Transnational Perspective: Religious Liberty, Third-Party Harm, and Pluralism" by Douglas NeJaime and Reva Siegel. In: *The Conscience Wars: Rethinking the Balance between Religion, Identity, and Equality*, ed. Susanna Mancini & Michel Rosenfeld (Cambridge Univ. Press, 2018). http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2714017

Forthcoming:

Cook, R.J. “Nigel [Rodley]’s Insights on the Feminist Transformation of the Right of Conscience,” Sir Nigel Rodley Human Rights Conference, Urban Morgan Institute for Human Rights, University of Cincinnati College of Law, October 28–29, 2017, *Human Rights Quarterly*, forthcoming May 2018.