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Abstract

Reproductive Rights conference

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PREFACE

On November 10 and 11, 1994, the Women and International Law Program of the Washington College of Law of The American University and the Women in the Law Project of the International Human Rights Law Group co-hosted a Conference entitled The International Protection of Reproductive Rights. The goal of the Conference was to evaluate how international law could be used more effectively to advance women's reproductive rights in light of the United Nations International Conference on Population and Development (ICPD) held in Cairo, Egypt in September 1994. Experts in international law, women's rights, and women's health examined the utility and limits of rights-based frameworks for protecting and promoting women's reproductive health. They explored the complex relationship among international norms, national laws, local customs, and fact-finding in developing legal strategies for enforcing international standards at the local, national, and international levels. This edition reflects the results of that Conference.

The ICPD had underscored how women's rights to health and reproductive choice are critical to their full participation in society. The ICPD Programme of Action adopted at Cairo by Member States aims to assure women access to a wide range of health services and contraceptive choices. Recognizing that universally recognized human rights norms should be applied to all aspects of population programs, it employs the concept of reproductive rights, which includes the right to attain the highest standard of sexual and reproductive health, as well as the right to make decisions concerning reproduction free of discrimination, coercion, and violence. Yet, in spite of the integrative approach taken to women's health and human rights at Cairo, at the time of this writing, much work remained to be done to ensure that the gains achieved at Cairo were carried forward to the Fourth World Conference on Women in Beijing in September 1995.

It is our hope that the Conference on the International Protection of Reproductive Rights and the publication of this volume will make a small contribution to that process. The Conference underscored the importance of interdisciplinary approaches to women's reproduc-

tive health. Experts in international law, women's rights, and feminist theory, together with experts in women's health, explored the ways that biological processes are embedded in the social, political, economic, and cultural fabric of women's lives. Drawing on international human rights norms, participants examined how and whether international human rights norms can be applied to translate women's interests and aspirations into rights. They also evaluated possible strategies for ensuring that reproductive rights, recognized in principle, are respected in practice at the local, national, and international levels. Several participants looked at the impact of religion and culture on women's reproductive health, examining in particular how culture and religion have been manipulated and abused by Christian and Muslim fundamentalists to deny women's human rights.

Participants also examined how, in the past, population policies often had resulted in the widespread abuse of the human rights of persons who were the supposed beneficiaries of those policies. Most participants advocated conceptualizing reproductive rights in terms of the full panoply of civil, political, economic, and social rights contained within human rights norms. In developing strategies for advancing reproductive rights, participants stressed the importance of examining the impact of policies and programs on women's health. While several participants argued that the International Covenant on Civil and Political Rights (Civil and Political Covenant) provides the most effective mechanism for challenging violations of women's reproductive rights, many others underscored the danger of this strategy. In addressing the integration of civil and political with economic and social rights, participants expressed concern that an approach focused on civil and political rights would perpetuate the existing neglect of economic and social rights, including the right to health, and fail to address some of the most pervasive forms of gender discrimination, such as those occurring within social and religious structures.

Participants emphasized the need to develop monitoring and enforcement mechanisms for the International Covenant on Economic, Social and Cultural Rights (Economic Covenant) and the Convention on the Elimination of All Forms of Discrimination Against Women (Women's Convention) so as to strengthen women's right to health and other related rights. In addition to exploring strategies for monitoring violations of women's right to health under both the Economic Covenant and the Women's Convention, participants examined other strategies for enforcing States' obligations to protect,

respect, and fulfill these rights. In particular, participants explored the utility of an optional protocol to the Women's Convention that would allow individuals and groups to bring complaints before the Committee on the Elimination of Discrimination Against Women (CEDAW) and permit CEDAW to undertake inquiries on its own. A draft Optional Protocol to the Women's Convention, developed by the Women in the Law Project in coordination with the Maastricht Centre for Human Rights, is included as an Appendix to this edition. Participants also explored the value of local legal and legislative activity for challenging violations of women's reproductive rights; they suggested using human rights standards to set limits for certain state practices, including, for example, public health restrictions justified on public policy grounds. They also discussed ways to make international organizations accountable when their policies and programs have a pervasive impact on women's reproductive health and human rights. This edition includes the formal papers presented by conference participants, as well as some of the remarks and comments of other participants. Throughout, the papers underscore how women's activism around the world has created a dynamic interplay between theory and action and between work on the international level and changes at the local level.

The Conference on the International Protection of Reproductive Rights marks an important collaborative effort between the Washington College of Law and the Women in the Law Project of the International Human Rights Law Group. It underscores the importance of bridging the gap between academic work and advocacy, of constantly ensuring that each is informed by the other. The Women and International Law Program of the Washington College of Law, directed by Lauren Gilbert, was launched in April 1994. The Program serves as a bridge between the Women and the Law Program, directed by Professor Ann Shalleck, and the International Legal Studies Program, directed by Professor Claudio Grossman, who is also Dean of Graduate Studies. The goal of the Women and International Law Program is to incorporate women's concerns and the analysis of gender into the study and practice of international law. The program seeks to encourage international legal studies curricula to take greater account of women's lives, to contribute to a growing body of scholarship on women and international law using various paradigms for addressing gender, and to develop programs in training and advocacy.

We would like to give special thanks to Donna Sullivan, Director of the Women in the Law Project of the Law Group, who played a vital

role in making the Conference a reality. Donna is also an adjunct professor at the Washington College of Law, where she has taught her course, Gender, Cultural Difference, and International Human Rights, for the past three years. The original conceptualization for this Conference came from Donna. She recognized the importance of evaluating, in an academic setting, the twin goals of carrying forward to Beijing the gains achieved at Cairo and developing mechanisms for using international standards to advance women's reproductive health at the local, national, and international levels. We also are grateful to Professor Rebecca Cook, Director of the International Human Rights Programme at the University of Toronto Faculty of Law, who provided invaluable guidance and advice throughout, giving shape and content to the substance of the Conference and emphasizing the critical importance of an integrated, interdisciplinary approach. We also would like to thank Lynn Freedman and Deborah Maine, both of the Columbia University School of Public Health, for their guidance in planning the Conference. Lynn and Deborah's collaborative efforts in linking women's health and human rights provide an example of both the challenges and the value of interdisciplinary approaches in moving from theory to policy to programmatic reality in ways that yield real health benefits for women. We also are grateful to Professor Berta Hernández of St. John's University School of Law, who undertook the daunting task of serving as Conference Rapporteur.

Thanks are also due to Andrew Hamm, Sara-Marie Miller, Robert Guitteau, and the staff of the Center for Human Rights and Humanitarian Law, and all the students at the Washington College of Law who contributed their time, energy, and support to ensure the success of the Conference, including, in particular, Ayesha Qayyum, Dharman Niles, Cassie Shaylor, and Ann Kaminstein. We thank Teresa Swinehart, Donna Sullivan's assistant and a student at the Washington College of Law, for her help in coordinating the Conference. Teresa served throughout as a critical link between the Law School and the Law Group. We also thank Will Delker, Senior Special Projects Editor, Tom Goldstein, Editor-in-Chief, Martine Tavakoli, Administrative Assistant, and the entire Editorial Board and staff of *The American University Law Review* for assuming the enormous challenge of turning the conference papers and proceedings into this finished product. We appreciate and admire the vision, flexibility, intelligence, and sensitivity that they have brought to this task. Their work has made an enormous contribution to advancing the dialogue created by this Conference.

Finally, the Conference and the publication of the conference proceedings would not have been possible without the generous support of several foundations, including the William and Flora Hewlett Foundation, the Shaler Adams Foundation, the Rockefeller Foundation, and the Brush Foundation. We owe particular thanks to Nancy Moss, former Program Officer for Population at the Hewlett Foundation. Without her initial vision and support throughout, neither this Conference nor our follow-up activities could have happened. We also would like to thank the Brush Foundation for its generous support for publication of the conference proceedings.

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