

1994

Women's Reproductive Rights Advanced at Conference

Gabriel Eckstein

American University Washington College of Law, gabrieleckstein@law.tamu.edu

Follow this and additional works at: <https://digitalcommons.wcl.american.edu/hrbrief>



Part of the [Health Law and Policy Commons](#), [Human Rights Law Commons](#), and the [Law and Gender Commons](#)

Recommended Citation

Eckstein, Gabriel. "Women's Reproductive Rights Advanced at Conference." Human Rights Brief 2, no. 1 (1994): 2, 10.

This Article is brought to you for free and open access by the Washington College of Law Journals & Law Reviews at Digital Commons @ American University Washington College of Law. It has been accepted for inclusion in Human Rights Brief by an authorized editor of Digital Commons @ American University Washington College of Law. For more information, please contact kclay@wcl.american.edu.

New Trend in Addressing Violence Against Women

by Layli Miller Bashir

Violence against women is an age-old problem. Recently, however, a new-found commitment to women's equality resulted in the adoption of the United Nations Declaration on the Elimination of Violence Against Women (UN Declaration), the appointment of the United Nations Special Rapporteur for Violence against Women, and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Inter-American Convention). Many women's rights activists feel that while these efforts are promising, additional emphasis must be placed on the need to prevent private acts of violence against women.

In December 1993, the international community took a significant step in combating violence against women when the General Assembly adopted the UN Declaration (Resolution 48/104). This document specifically recognizes the need to focus upon domestic violence, which was traditionally believed to be outside the purview of international law because it involves private rather than state action. The UN Declaration also shows little tolerance for the assertion of cultural defenses to violence against women. Article 4 declares that "states should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligation with respect to its elimi-

nation." In addition, the UN Declaration obliges governments "to modify the social and cultural patterns of conduct of men and women and to eliminate prejudices, customary practices and all other practices based on the idea of the inferiority or superiority of either of the sexes and on stereotyped roles for men and women." Specific abuses enumerated in the UN Declaration include violence within families, dowry-related violence, and female genital mutilation. "Other traditional practices harmful to women are also cited for correction in spite of their culturally-sensitive nature."

Despite the progress represented by the UN Declaration, some have questioned its effectiveness. Many of the UN Declaration's provisions are worded so that they may be construed as recommendations rather than obligations. Also, the UN Declaration may be interpreted to excuse inaction by poorer governments, as it provides that states may implement the provisions "to the maximum extent feasible in the light of their available resources."

In March 1994, the United Nations Commission on Human Rights fortified the UN Declaration by appointing Radhika Coomaraswamy of Sri Lanka to the post of Special Rapporteur on Violence Against Women for a term of three years. Ms. Coomaraswamy's responsibilities include

continued on page 15

Women's Reproductive Rights Advanced at Conference

by Gabriel Eckstein

"The challenge facing activists now is to carry forward the achievements of the Cairo Conference [on Population and Development] and to expand the ground gained at upcoming world conferences, in particular at the Fourth World Conference on Women [in Beijing in 1995]," said Donna Sullivan, Director of the Women in the Law Project of the International Human Rights Law Group. Sullivan spoke at the Conference on the

"Women's rights to health and reproductive choice are critical to their full participation in society."

International Protection of Reproductive Rights held at The American University on November 10-11, 1994. The Conference, hosted by the Law Group and the Women & International Law Program (W&ILP) at the Washington College of Law, brought together women and men



Conference participants (left to right): WCL Dean of Graduate Studies Claudio Grossman; WCL Dean Elliot Millstein; W&ILP Director Lauren Gilbert; Director of the Women and the Law Program at WCL Ann Shalleck; Egyptian attorney Mona Zulficar; and Conference keynote speaker Rebecca Cook.

from Europe, Africa, the Americas, the Middle East, and South Asia to evaluate the achievements of the Cairo Conference, with respect to women's reproductive health, and explore mechanisms by which international law could be used to advance women's reproductive rights.

"Women's rights to health and reproductive choice are critical to their full participation in society," asserted Lauren Gilbert, Director of W&ILP. Gilbert's sentiment underscored the principal theme of the Conference - women not only have the right to decide freely and responsibly

continued on page 10

The Human Rights Brief is a publication of the Center for Human Rights and Humanitarian Law in conjunction with the Washington College of Law at The American University. No portion of this newsletter may be reproduced without the express written permission of The Human Rights Brief. All correspondence, reprinting requests, and articles proposed for publication may be sent: c/o Center for Human Rights and Humanitarian Law, Washington College of Law, The American University, 4400 Massachusetts Avenue, NW, Washington, DC 20016. Ph. (202) 885-2719. Fax. (202) 885-3601. E-mail: HUMLAW@AMERICAN.EDU

Directors of the Center For Human Rights and Humanitarian Law
Robert Goldman Claudio Grossman Herman Schwartz

Executive Director
Robert Guiteau

Newsletter Staff

Editor-in-Chief Gabriel E. Eckstein

Articles Editor Samir Desai

Editorial Board Nadia Ezzelarab, Fernando González-Martín, Nicola Hillman, Alejandro Ponce-Villacis, Rochus Pronk, Ayesha Qayyum, Sergio Ramirez, Brian Tittmore
Alumni Board Sharon Healey-Scully, Antonio Maldonado, Claudia Martín, Diego Rodriguez, Françoise Roth, Jennifer Susman

Newsletter Staff Layli Miller Bashir, Angela Collier, Bina Desai, Michelle Domke, Alison Graves, Karen Graziano, David Hyden, Laura A. Langberg, Fatimah Mateen, Renate Nikolay, Dharman Niles, Jessica Roff, Claudio Santorum, Magda Theodute, Maria Rosario Valenciano, Klaus Weigeldt

An equal opportunity/affirmative action university.
printed on recycled paper



Conference, continued from page 2

the number, spacing, and timing of their children, but also to obtain the information and means to do so. States therefore have a duty to dismantle obstacles to the free flow of information regarding reproductive health issues, and to ensure that individual decision-making concerning reproduction is free from discrimination, coercion, and violence.

Women must first be respected as "human beings with human rights," insisted Cecilia Medina-Quiroga, Professor of International Human Rights Law at the University Diego Portales and the University of Chile. Medina-Quiroga noted that women's human rights are marginalized and violated throughout the world, while Berta Hernández, Professor of Law at St. John's University School of Law, pointed out that "the UN classifies women as the largest excluded group in the world." Although the rate of growth of global population is of alarming proportion, "that's no justification for abusive measures" against women, agreed Rebecca Cook, Director of the International

Human Rights Programme at the University of Toronto, and Conference keynote speaker. Cook and other participants also stresses the importance of interdisciplinary approaches to promoting women's health and human reproductive rights.

Despite past subordination of women's rights and concerns in issues of population and development, Conference speakers generally concurred that since

the UN World Human Rights Conference held in Vienna in 1993, where women's organizations surprised many with their level of preparation and vigor, women's rights have become more widely debated and addressed in international law. Moreover, they noted that the Cairo Conference furthered the goal of women's rights by building on the concept of the empowerment of women.

Conference panel themes included: Reproduction, Rights and Reality: How Facts and Law Can Work For Women; The Utility and Limits of Rights-Based Approaches; The Right To Health; The Impact of Reproductive Subordination on Women's Health; Civil and Political Rights and the Right to Non-Discrimination; and Religious and Cultural Rights. The proceedings of the Conference will be published in *The American University Law Review* in March 1995. ☉



Gabriel Eckstein

Conference speakers (left to right): Acting Executive Director of Profamilia in Bogotá, Columbia María Isabela Plata; Senior Advisor for the Child Survival Unit at UNICEF Monica Sharma; and Director of the International Human Rights Law Clinic at WCL Rick Wilson.

The Legal Approach, continued from page 8

choice. Thus, domestic laws structuring the conditions in which women live and work are also critical to allowing them to make reproductive choices.

Although the phrase "human rights" is sometimes used loosely to express general norms of justice and human dignity, the term refers equally to system of rights

The legal expression of ethical or medical norms provides neutral, generally acceptable standards for assessing the minimum required quality of reproductive health care.

guaranteed under the law. In assessing the contribution of the human rights framework to the formulation of population policies, it is useful to consider the national and international legal dimension outlined above. The legal expression of ethical or medical norms provides neutral, generally acceptable standards for assessing the minimum required qual-

ity of reproductive health care. It institutes accountability and the potential of enforcement against violators of these standards. It also creates a "safe harbor" or zone of protection for a specified range of reproductive options and medical procedures. Finally, it asserts the importance of individual needs over the politically determined community good. Although rights are never absolute in legal terms, the implementation of population policies consistent with such a framework implies recognition of at least a presumptive entitlement to the rights for individuals as well as the gravity of their deprivation.

To make population policies fully supportive of women's rights, countries must modify restrictive national laws, enforce laws that ensure women's rights and reassess policies of non-ratification of international treaties that bear on women and reproductive rights. Countries should adopt measures that reinforce the significance of the rights of women in all policies and programs and ensure even-handed prohibition of compulsion, coercion and discrimination in all medical and counseling services.

Governments should offer an approach to family planning that includes a wider range of reproductive health care options that fully respect the choices of individuals to have or not have children and the choices of women to continue or terminate pregnancy. Finally, they should adopt laws, policies and programs that promote the legal, medical, social and economic conditions that empower women, thereby making reproductive health and reproductive choice a reality of daily life. This is indeed a daunting agenda. But it is long overdue. ☉