REPRODUCTIVE RIGHTS LAW & JUSTICE



COURSE SURVEY 2003-2010

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2003-2010

Law Students for Reproductive Justice www.LSRJ.org

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I. INTRODUCTION

Legal education has been slow to evolve since Dean Christopher Langdell first introduced the case method at Harvard Law School in the late 19th century. Although developments like the clinical movement, coeducation, and critical legal studies have broadened the accepted wisdom about what contributes to quality training for future lawyers, the standard core curriculum—contracts, property, torts, criminal law, and civil procedure—remains largely unchanged from the curriculum instituted over 100 years ago by Langdell. Despite the fact that law school graduates proceed not only to private practice but also become public interest lawyers, policymakers, judges, and law professors, some law schools have been slow to add specialized courses in certain areas. This is particularly true in the context of reproductive rights law.

Law Students for Reproductive Justice (LSRJ) is committed to educating, organizing, and supporting law students to ensure that a new generation of advocates will be prepared to protect and expand reproductive rights as basic civil and human rights. We know from our own experiences and from our members that most formal legal education largely ignores reproductive rights doctrine and discourse or dismisses the jurisprudence as an erroneous feat of judicial activism bound to be overturned. This sends a misleading message to the current generation of law students that reproductive rights law is neither a legitimate field of study nor a worthwhile area of practice.

From its early days, LSRJ has supported law student campaigns for new reproductive rights law and justice courses, believing such efforts to constitute important steps in a larger movement towards the de-marginalization of reproductive rights law within the legal academy. As we have institutionalized our curriculum advocacy programming through the LSRJ Course Campaign Working Group and continue to rack up new course victories, our members and supporters have repeatedly asked for our assessment of the lay of the reproductive rights law land within legal education. Inspired by this need to understand the bigger picture, we launched the LSRJ Course Survey in 2009 in order to collect information about reproductive rights law and justice course offerings at all ABA-approved law schools since LSRJ's founding in 2003.

The results of this initial survey confirm much of what we had already understood anecdotally about the limited opportunities law students have to study reproductive rights law as part of their legal training. We offer this data and analysis both to support ongoing and future course campaigns and to encourage dialogue among professors, students, administrators, and practitioners. The results paint a stark picture of how much serious work lies ahead, but we remain hopeful. Based on the number of new courses offered in the last several years alone, a significant number of which resulted from LSRJ chapter advocacy, we believe there is cause for optimism. Through the sustained effort of LSRJ members, alumni, and staff we will continue to see growth in curricular offerings and more exposure to important reproductive rights legal principles for all law students.



II. METHODOLOGY

A. Survey Process

As of October 2010, there are 200 ABA-approved law schools in the United States, 199 of which confer a Juris Doctor degree.¹ Counted in this group are five provisionally accredited law schools, which were included in the survey,² and two law schools based in U.S. territories, which were not included.³ This leaves a total of 197 law schools included in the survey.

In February 2009 LSRJ began contacting registrars at all 197 law schools, asking them to complete an online survey about reproductive rights-related course offerings and instructor-led reading groups at their law schools.⁴ The survey asked for the course title, instructor name, instructor affiliation, semester/year offered, enrollment, and course format for all courses offered from the 2003-04 through the 2009-10 academic years. LSRJ requested information about all offerings dedicated to reproductive rights generally or to a particular related issue. Follow-up outreach to non-responsive schools continued through the spring 2010 semester in an attempt to gather information from as many law schools as possible. Information about existing courses was then independently confirmed by the instructors. LSRJ made every effort to gather and confirm all relevant course details but understands that gaps or inaccuracies may remain and welcomes corrections to information contained within this report.⁵ Tracking course offerings will remain an ongoing project as existing courses are offered again and new courses are introduced, and LSRJ relies on the support of its law student members and academic allies to help monitor such developments.

B. Categorization

The philosophy and substance of law school courses often vary according to the priorities and preferences of individual instructors. Although reproductive justice issues may appear on syllabi in a number of different law school classes—from family law to bioethics to criminal procedure—we chose to focus specifically on reproductive rights law courses. There are several reasons for this. LSRJ believes there is value in having independent reproductive rights law course offerings because it signals that this is a rich and worthwhile area of the law to study.

¹ American Bar Association, ABA-Approved Law Schools, http://www.abanet.org/legaled/approvedlawschools/approved.html (last visited October 5, 2010). One school, the U.S. Army Judge Advocate General's School, offers a specialized officer's resident graduate course only.

² The law schools with provisional approval are: Charleston School of Law, Charlotte School of Law, Earle Mack College of Law at Drexel University, Elon University School of Law, and University of La Verne College of Law.

³ The two ABA-approved law schools located outside the 50 states are the Escuela de Derecho, Universidad de Puerto Rico and Pontificia Universidad Católica de Puerto Rico.

⁴ We will use "courses" throughout the report to refer to seminar- and lecture-style courses, as well as instructor-led reading groups, unless explicitly stated otherwise.

⁵ All corrections and any relevant additional information may be emailed to info@lsrj.org.



While we applaud professors who thoughtfully teach reproductive justice-related topics in a variety of courses, one or two class sessions (or their equivalent) of reproductive rights and justice throughout an entire law school career is insufficient for meaningful engagement with the material. For some professors, the proportion of time dedicated to reproductive justice concepts in their health law, family law, or poverty law courses is certainly higher, but it would be impossible to identify these particular courses for inclusion in the survey results without examining each individual syllabus, a task that currently exceeds LSRJ's available resources.

These factors also guided our decision to exclude gender & the law courses, sex discrimination courses, and law & sexuality courses from the results of the course survey. While courses falling in these categories undoubtedly raise important concerns about the regulation of sex, gender, and sexuality in our society—issues that have shaped our reproductive rights jurisprudence and which continue to influence law and policy in this area—they generally cover a much more limited set of reproductive rights law issues. It is possible that by excluding these categories we will miss certain classes that are taught from a sustained reproductive justice perspective, but we anticipate such courses constituting only a small handful at most. Again, we are constrained by the inability to examine individual syllabi to assess how each professor has designed her/his course.

Finally, we have also excluded reproductive technology & bioethics courses from the course survey. Although the use and regulation of assisted reproductive technologies (ART) is an important reproductive justice issue, when taught in a law school environment, these courses tend to include lighter coverage of the law governing reproductive rights. Many ART/bioethics courses are taught by faculty with specialized backgrounds in bioethics and philosophy, rather than constitutional law, human rights, or critical theory. This is certainly a valuable perspective for students grappling with various legal and moral issues raised by ART, and we applaud new courses in this area—including those secured through the efforts of the LSRJ Course Campaign Working Group—but such courses should not preclude or supplant dedicated reproductive rights law course offerings.

For all of these reasons, we relied on the language of the course title itself to determine whether a course was counted in the survey results, erring on the side of inclusion where course names were somewhat ambiguous. Eligible courses included a combination of the following words or phrases: reproduction, reproductive rights, reproductive freedom, health, abortion, sexual, rights, law, and legal. We refer to them as reproductive rights law & justice (RRLJ) courses. Courses whose primary focus was clearly ART and/or ethics—with language such as reproductive technology, technology, bioethics, medical ethics, assisted reproduction, genetics, or medical-legal in the title—were excluded from the survey results.

III. RESULTS

A. Eighteen percent of respondent schools reported RRLJ courses.

Of 197 schools surveyed, we identified information for 177 schools, representing a response rate of 90%.⁶ Of these, 32 schools—or 18% of respondents—reported one or more RRLJ courses from the 2003-04 through the 2009-10 academic years. These 32 schools offered a total of 37 separate RRLJ courses, some of which were taught by the same instructor on multiple occasions.

Table 1. Results Overview

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# schools surveyed	197
# schools responded	177
Overall response rate	90%
# schools offering RRLJ	32
course/reading group	
% of responsive schools	18%
offering RRLJ	
course/reading group	
Overall # RRLJ	37
courses/reading groups	

RRLJ courses have been taught at law schools throughout the U.S. The 32 schools reporting RRLJ course offerings are located in 17 states around the country, including the District of Columbia.

RRLJ Courses Across the U.S.

- Existing Courses



⁶ The non-responsive schools are: Charleston School of Law, Florida Coastal School of Law, Indiana University School of Law—Indianapolis, Liberty University School of Law, Loyola Law School—Los Angeles, Notre Dame Law School, Ohio Northern University Pettit College of Law, Regent University School of Law, Roger Williams University School of Law, Southern Methodist University Dedman School of Law, University of St. Thomas School of Law (Minnesota), Syracuse University College of Law, Thurgood Marshall School of Law at Texas Southern University, University of Detroit Mercy School of Law, University of Illinois College of Law, University of La Verne College of Law, University of North Dakota School of Law, University of South Carolina School of Law, Washington University in St. Louis School of Law, and Widener University School of Law in Delaware.



B. The number of RRLJ courses taught at U.S. law schools has increased.

There were RRLJ courses offered during every semester from 2003-04 through 2009-10. The number of courses available during any given semester has increased since the 2003-04 academic year, reaching its highest point during 2008-09, with 19 total courses taught either in the fall or spring.

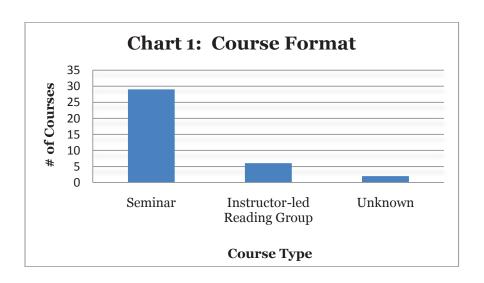
Table 2. Number of Courses Administered Each Semester

	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
Fall	1	1	3	9	6	9	7
Spring	1	2	6	6	9	10	9 ⁷

Electives such as reproductive rights law courses are often taught on cyclical bases to enable instructors to juggle full teaching schedules, so it is not surprising that the numbers for 2009-10 show a decrease from the previous year.

C. More than 75% of RRLJ courses are taught as seminars.

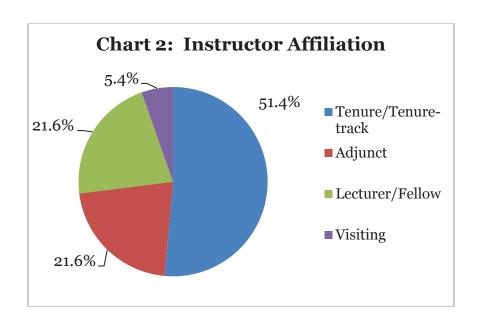
The vast majority of schools with dedicated RRLJ curriculum reported seminar-style courses. Twenty-nine (78.4%) of the 37 offerings are seminars. An additional six course offerings (16.2%) took the form of instructor-led reading groups, while the format of two courses (5.4%) was unknown.



⁷ The University of the District of Columbia David A. Clarke School of Law's "Reproductive Rights Law & Justice" course, offered during the Summer 2010 session, is included here.

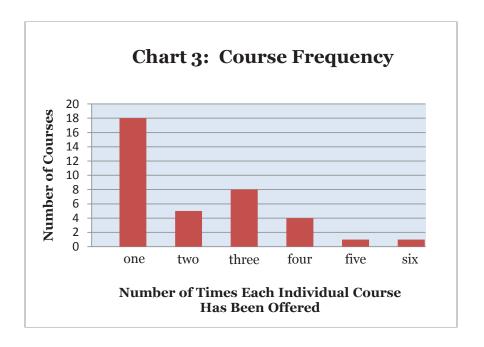
D. The majority of courses are taught by full-time faculty members.

Full-time faculty members teach the majority of RRLJ courses reported in the survey. Nineteen of the courses (51.4%) were taught by tenured or tenure-track professors, and eight courses (21.6%) were taught by adjunct faculty members. Eight courses (21.6%) were taught by instructors holding lecturer or fellowship posts, and another two (5.4%) were offered by visiting professors.



E. Nearly half of the courses have been offered only once.

Eighteen of the RRLJ courses (48.7%) reported in the survey had been offered only one time through the end of the 2009-10 academic year. Five courses (13.5%) had been offered twice by the same instructor, eight courses (21.6%) had been offered three times, and four courses (10.8%) had been offered four times. One course (2.7%) had been offered five times, and only one course (2.7%) had been offered six times from 2003-04 through 2009-10.



F. More than half of courses were offered during the previous two years.

Sixteen courses (43.2%) were offered most recently during the 2009-10 academic year. Twelve courses (32.4%) were offered most recently in 2008-09, while five (13.5%) were taught most recently in 2007-08. Looking further back in time, two courses (5.4%) have not been taught since 2006-07, and two courses (5.4%) made their most recent appearance in 2005-06, although one of them—Berkeley Law's "The Future of Reproductive Rights: Doctrine and Discourse"—is on the schedule again for 2010-11.

Table 3. Most Recent Course Administration, By Year

Year	2005-06	2006-07	2007-08	2008-09	2009-10
# courses	2	2	5	12	16

While it is encouraging that 28 courses reported in the survey were offered either in 2008-09 or 2009-10, this means that approximately one quarter of the courses were not available to the graduating class of 2010 during their second and third years, the period when most law students are eligible to register for electives. The sizable number of courses that have not been available in the last two years highlights the need to ensure that new RRLJ courses are retained in the curriculum and continue to be offered, even if on a cyclical basis. A hiatus for two or more years means that entire classes of law students graduate without formal classroom exposure to reproductive rights law. Furthermore, this gap also decreases the likelihood that law students will know such an elective has been and could again be offered at their school.



Despite concerns about the longevity of RRLJ course offerings, the results on course frequency also sound a positive note for the expansion of RRLJ curriculum. Although 18 (48.7%) of the courses reported have only been offered once, almost three-quarters of them (13 courses) were introduced as new courses either in 2008-09 or 2009-10. Seven of the 16 courses taught in 2009-10—or 44%—were offered for the first time during 2009-10. Legal education may be slow to evolve, but the fact that 41% of existing RRLJ courses were introduced in the last two years suggests that law schools are beginning to heed the call for more reproductive rights law curriculum.

Table 4. First Course Administration, By Year

Year	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
# courses	2	3	6	7	4	8	7

G. More than one-third of the courses resulted from LSRJ chapter advocacy.

LSRJ members and alumni have been among those calling the loudest for more reproductive rights law and justice course offerings, and they have turned their words into actions. Thirteen courses (35%) reported in the survey were created and approved at least in part due to the advocacy of LSRJ chapters. An additional course, at Golden Gate University School of Law, is included in the list of LSRJ course victories, although its first administration was ultimately postponed until the 2010-11 academic year.

An additional three courses focusing on the intersection of reproductive rights, ART, and bioethics have resulted from LSRJ chapter advocacy, for a total of 17 LSRJ course victories. Table 5 includes RRLJ courses, RRLJ instructor-led reading groups, and ART/bioethics courses that LSRJ members helped to secure.

Table 5. LSRJ Chapter Course Campaign Victories

Law School	Course Name
Albany Law School	Human Reproduction: Legal and Moral Issues
Columbia Law School	Reproductive Health and Human Rights
Georgetown University Law Center	Global and National Approaches to Reproductive Health and Law
George Washington University Law School	Family Law Seminar: Reproductive Rights
Golden Gate University School of Law ⁸	Reproductive Rights & Justice

⁸ First administration of this course was postponed until the 2010-11 academic year.

8



Hamline University School of Law	Assisted Reproductive Technology & the Law
Harvard Law School	Reproductive Rights and the Jurisprudence of Equality in the Context of a Transforming Supreme Court
Seattle University School of Law	Reproductive Health: Law & Public Policy
University of Arizona School of Law	Reproductive Law & Ethics
University of California, Berkeley Law (Boalt Hall)	The Future of Reproductive Rights: Doctrine and Discourse
University of California Davis School of Law	Reproductive Rights, Law & Policy
University of the District of Columbia David A. Clarke School of Law	Reproductive Rights Law & Justice
University of California Hastings College of the Law	Social, Legal & Ethical Implications of Human Reproductive & Genetic Technologies
University of Minnesota Law School	Choice: The Law of Reproductive Rights/The Law of Reproductive Rights ⁹
University of Southern California Gould School of Law	Reproductive Rights and Justice
Yale Law School	Abortion Jurisprudence: The Road to Carhart & Beyond (Reading Group)
Yale Law School	Pregnancy Discrimination, Abortion & Equality (Reading Group)

Since its inception, LSRJ has supported over 35 individual chapters in their pursuit of RRLJ courses, assisting law students in identifying appropriate instructors, mobilizing on-campus support, and effectively petitioning their administrations for new curricular offerings. Such guidance includes helping students to navigate bureaucratic channels; identify and highlight gaps in the curriculum; cultivate allies among the faculty, student body, and administration; and prepare for likely objections to their new course proposals. LSRJ's *Model Curriculum for Courses in Reproductive Rights Law & Justice* is available as a resource for instructors designing new syllabi and for students working to cultivate support among potential instructors and members of the administration. LSRJ provides support that is unavailable through other channels, helping to turn individual action into institutional change. These course campaigns

⁹ After the first administration of the course "Choice: The Law of Reproductive Rights," the name of the course was changed to "The Law of Reproductive Rights."



become an important part of law students' training as advocates, while they seek the classroom experiences that will make them better prepared and more well-rounded lawyers.

IV. CONCLUSIONS

The first survey of RRLJ course offerings at U.S. law schools largely confirms what reproductive rights advocates already knew: that most law schools do not offer their students sufficient opportunities for coursework in reproductive rights law. Only 18% of respondent schools (representing 90% of ABA-approved law schools) have offered even a single RRLJ course from 2003-04 through 2009-10. Of the 37 known courses and instructor-led reading groups, nearly half have been taught only once. The vast majority of law students does not have access to these courses and will graduate from law school lacking in-depth exposure to this area of the law.

At the same time, the survey results suggest that there is cause for cautious optimism. The majority of known courses have been taught by full-time faculty members, which underscores that law school administrators and scholars appreciate reproductive rights law as a legitimate, worthwhile area of the law that should be an institutionalized part of the training available to future advocates. More than one-third of existing RRLJ courses were introduced in 2008-09 or 2009-10, perhaps signaling the beginning of a trend in RRLJ curricular expansion. In addition, the number of recently created courses suggests that law school administrations may be receptive to adding new RRLJ courses in order to satisfy student demand. In fact, over a third of existing RRLJ courses resulted from LSRJ chapter advocacy, each new course an individual example of law students organizing to take a more active role in shaping their legal education. At the same time, the significant number of courses that have not been taught in the last two years highlights the importance of advocating for course longevity in order to ensure that exciting new classroom opportunities become integrated into the curriculum rather than fade from memory as one-time experiments.

LSRJ hopes these survey results will be received with interest by all those who care about quality legal education and will serve as a call to action for those law students at the other 82% of law schools in the U.S. that do not *yet* have a reproductive rights law & justice course in their course catalog.



APPENDIX

Reproductive Rights Law & Justice Curricular Offerings Courses & Instructor-Led Reading Groups Offered at ABA-Approved Law Schools 2003-04 through 2009-10

Law School	Course Name	Instructor	When Taught
Albany Law School	Human Reproduction: Legal and Moral Issues	Katheryn Katz	2004-05 Spring 2006-07 Spring 2007-08 Spring
American University Washington College of Law	Reproduction and the Law	Pamela Bridgewater	2004-05 Spring 2005-06 Spring 2006-07 Fall 2006-07 Spring 2007-08 Spring 2009-10 Fall
Case Western Reserve University School of Law	Reproductive Rights Seminar	Jessie Hill	2003-04 Fall 2006-07 Fall 2008-09 Fall
City University of New York School of Law	Reproductive Rights Topics in Law	Caitlin Borgmann	2006-07 Spring 2008-09 Spring 2009-10 Spring
Columbia Law School	Reproductive Health and Human Rights	Nancy Northup	2006-07 Fall 2007-08 Fall 2008-09 Fall
Duke University School of Law	Reproductive Law	Anne M. Dellinger & Dona M. Lewandowski	2005-06 Spring 2007-08 Fall
Earle Mack School of Law at Drexel University	Reproductive Rights Law	Aimée Kahan	2009-10 Spring
Emory University School of Law	Reproductive Issues	Martha Fineman	2006-07 Fall 2006-07 Spring 2009-10 Fall
Fordham University School of Law	Reproductive Rights: Comparative Law	Stephanie Toti	2009-10 Spring
Georgetown University Law Center	Global and National Approaches to Reproductive Health and Law	Julia Ernst	2006-07 Fall 2007-08 Fall 2008-09 Fall
George Washington University Law School	Family Law Seminar: Reproductive Rights	Stephanie Ridder	2006-07 Spring 2007-08 Spring 2008-09 Spring 2009-10 Spring



Harvard Law School	Reproductive Rights and the Jurisprudence of Equality in the Context of a Transforming Supreme Court	Janet Benshoof	2004-05 Fall 2005-06 Fall 2006-07 Spring
Harvard Law School	International Reproductive/Sexual Health Rights (Reading Group)	Mindy Roseman	2009-10 Spring
Indiana University School of Law – Bloomington	Seminar in Constitutional Law: Sexuality, Reproduction & the Law	Dawn Johnsen	2006-07 Fall 2007-08 Fall 2008-09 Fall 2009-10 Fall
Indiana University School of Law – Bloomington	Reproduction, Childhood and the Law	Jody Madeira	2007-08 Spring 2008-09 Spring 2009-10 Spring
Lewis & Clark Law School	Reproduction and the Law	Paula Abrams	2008-09 Spring
Loyola University New Orleans School of Law	Reproductive Rights & the Constitution	Carter Dillard	2009-10 Fall
New York University School of Law	From Roman to Modern Law: the Law of Persons, Family, Abortion, Homosexuality	Eva Cantarella	2005-06 Spring
Santa Clara University School of Law	Health Law Seminar: Government Regulation of Reproduction	Michelle Oberman	2008-09 Spring 2009-10 Fall
Seattle University School of Law	Reproductive Health, Law & Public Policy	Helen P. Howell	2006-07 Fall
University of California, Berkeley Law (Boalt Hall)	The Future of Reproductive Rights: Doctrine and Discourse	Kristin Luker	2005-06 Fall
University of California Davis School of Law	Reproductive Rights, Law & Policy	Lisa Ikemoto	2007-08 Spring
University of California Los Angeles School of Law	Human Rights and Sexual Politics	Lara Stemple	2005-06 Spring 2006-07 Fall 2007-08 Fall 2008-09 Fall
University of Denver Sturm College of Law	Legal and Medical Control of the Reproductive Process	Nancy Ehrenreich	2005-06 Spring 2007-08 Spring
University of the District of Columbia David A. Clarke School of Law	Reproductive Rights Law & Justice	Jill Morrison	2009-10 Summer '10



University of Minnesota Law School	Choice: The Law of Reproductive Rights/The Law of Reproductive Rights ¹⁰	Judith Younger	2008-09 Fall 2009-10 Fall
University of North Carolina School of Law	Women & Health Law	Joan Krause	2009-10 Spring
University of Pennsylvania Law School	Human Reproduction Law & Policy (Reading Group)	Anita Allen	2008-09 Fall
University of Pittsburgh School of Law	Reproduction, Sexuality and the Law	Susan Frietsche	2005-06 Fall 2006-07 Fall 2007-08 Fall 2008-09 Spring 2009-10 Spring
University of Southern California Gould School of Law	Reproductive Rights and Justice	Kim S. Buchanan	2008-09 Fall
University of Wisconsin Law School	Past, Present, Future of Reproductive Freedom	Andrew Coan	2008-09 Spring
Washington and Lee University School of Law	Abortion Controversy Seminar	Sam Calhoun	2003-04 Spring 2005-06 Spring 2007-08 Spring 2008-09 Spring
Yale Law School	Abortion Jurisprudence: The Road to Carhart & Beyond (Reading Group)	Priscilla Smith	2007-08 Spring
Yale Law School	Pregnancy Discrimination, Abortion & Equality (Reading Group)	Priscilla Smith	2008-09 Fall
Yale Law School	At Home and Abroad: Reproductive Rights Through a Comparative Lens (Reading Group)	Priscilla Smith	2008-09 Spring
Yale Law School	Problems in Procreation, Pregnancy and Parenting (Reading Group)	Priscilla Smith	2009-10 Fall
Yeshiva University Benjamin N. Cardozo School of Law	Reproduction Policy and Law	Edward Stein & Adrienne Asch	2007-08 Spring 2008-09 Spring

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¹⁰ After the first administration of the course "Choice: The Law of Reproductive Rights," the name of the course was changed to "The Law of Reproductive Rights."



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