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The Right to Family Planning, 40 Years Later

In May 1968, governments recognized for the first time that women and men have a basic right to decide for themselves how many children they want and when. The occasion was a United Nations conference on human rights in Teheran. But forty years later, governments around the world, from the United States to the Philippines, continue to deny women the right to family planning.

Most recently, Chile’s Constitutional Court voted on April 4 to ban public health facilities—on which a large sector of the population depends—from [distributing emergency contraception](#). Abortion in Chile is criminalized in all instances, and this decision takes away one of the last resorts a woman has for avoiding an unwanted pregnancy.

Meanwhile, women in Manila City, the Philippines have had to live with the consequences of a contraception ban for eight years. Since 2000, city hospitals and clinics have been [prohibited from distributing any forms of modern birth control](#). Women’s lives and health have been put at risk, the number of unsafe abortions has increased, and low-income families have become even more impoverished.

The fight over family planning also continues in the United States. Conservative politics trumped scientific rigor when the federal Food and Drug Administration ignored its own procedures and overwhelming medical evidence by denying [over-the-counter access to emergency contraception](#) to women under the age of 18.

But there has also been progress. In March, the U.N. Committee on the Elimination of Racial Discrimination affirmed for the first time that [governments are obligated to ensure](#) that all women have access to family planning. A woman’s autonomy and dignity depend on nothing less.



“...these [pro-life] activists aren’t afraid to destroy people’s lives to make a point. They see Dr. Tiller’s patients as a casualty of their war and stop at nothing.”

Besieged on All Sides

Women have been caught in the middle of a political witch-hunt in Kansas. Earlier this year, anti-choice advocates stepped up their decades-long assault on Dr. George Tiller, one of the few doctors in the country who provides abortions during the late second and third trimesters. Abortion opponents used a little-known Kansas law that allows citizens to convene a grand jury by collecting signatures on a petition. Their target: Dr. Tiller. Soon after the grand jury began its investigation of the doctor, it subpoenaed the [private medical records](#) of about 2000 of the doctor’s patients.

Then, in April, Kansas legislators passed an [anti-abortion bill](#) that allows a broad range of individuals—including siblings and grandparents—to go to court to stop a woman from having an abortion if she is more than 21 weeks pregnant. Many of the bill’s measures are specifically targeted at [Dr. Tiller’s practice](#), the only practice in Kansas to provide abortions after the 21st week of pregnancy.

As the Center wrote in its veto letter to Kansas Governor Kathleen Sebelius, the anti-abortion bill “expands the opportunities for politically motivated litigation that would prevent women from making personal, private medical decisions.” (For more on veto letters, see the Glossary in this issue). The governor subsequently vetoed the bill on April 21.

“These activists aren’t afraid to destroy a few people’s lives to get what they want and make a point. They see Dr. Tiller’s patients like me as casualties of their war and stop at nothing,” said **Paula Poe***. On April 8, the Center argued before the Kansas Supreme Court on behalf of **Poe** and other patients of Dr. Tiller to block the grand jury from obtaining their medical records. On May 6, the court ruled that the grand jury cannot arbitrarily subpoena the records. [To learn more about the decision, read our press statement.](#)

** The name used is a pseudonym to protect the identity of the client.*



Glossary: Veto Letter

A veto letter asks a governor to veto a piece of legislation passed by the state legislature. These letters can not only provide governors with the legal arguments they need to veto a bill, but can also dissuade lawmakers from overriding the veto. The Center’s recent veto letter to Kansas Governor Kathleen Sebelius, for example, argued that an anti-abortion bill before her would be unconstitutional and would harm women’s health. Veto letters provide groups such as the Center with an opportunity to get their perspectives included in the legislative process. The Center’s State Program writes between three and six veto letters each year.



Martha Davis

“...The Law School Initiative continues the Center’s legacy of innovation by engaging the profession’s most productive scholars.”

Q and A: Martha Davis

Martha Davis, well-known advocate and legal scholar at the Northeastern University School of Law, is serving as a consultant to the Center’s Law School Initiative. This groundbreaking project, conceived of two years ago during the Center’s strategic planning process, engages U.S. law schools and legal scholars in order to promote teaching and scholarship on reproductive rights as human rights. Its ambitious goal is to enable future lawyers, judges, and academics to adopt the human rights framework and use it to strengthen reproductive rights. The Law School Initiative will be supported during its first three years by a \$3 million grant from an anonymous foundation. The International Legal Program, meanwhile, will continue to reach out to academics and law schools globally, building on its existing involvement with a *network of legal scholars in Latin America*. *ReproWrites* spoke to **Martha Davis** about her work with the Center:

- Q:** As a law professor and a women’s rights advocate, what do you find most exciting about the Center’s Law School Initiative?
- A:** This Initiative continues the Center’s legacy of innovation by engaging the profession’s most productive scholars, focusing their attention on the right to reproductive choice, and providing a mechanism for creating direct links between the academy and advocacy efforts. A series of roundtables this summer, for example, will form bridges between academics and activist lawyers at the Center. The meetings will provide an opportunity for scholarly exchanges and for the Center to get feedback on some ideas about how to use human rights in the U.S.
- Q:** How will the Initiative improve the way reproductive rights issues are taught in law schools at present?
- A:** There are very few law schools that offer a dedicated course on reproductive rights. Most students are exposed to the issue in their constitutional law classes, but in a framework that doesn’t stimulate critical thinking or address innovative approaches for advancing reproductive rights. The Initiative is a long-term project that seeks to influence teaching today in order to build support for reproductive rights in courts and law practices 10 – 20 years down the line. We are examining the casebooks used by professors in their classes so that we can make suggestions to the authors about how to better present reproductive rights issues. We’re also gathering ideas from professors who’ve developed their own material as a precursor to developing a free-standing casebook. This will help establish reproductive rights as an area of legitimate scholarship and teaching.