

GENDER JUSTICE IN THE AMERICAS:

A TRANSNATIONAL DIALOGUE ON
SEXUALITY, VIOLENCE, REPRODUCTION, AND HUMAN RIGHTS

FEBRUARY 23-25, 2011

UNIVERSITY OF MIAMI SCHOOL OF LAW

CORAL GABLES, FLORIDA

AGENDA

OBJECTIVES OF CONVENING:

- Identify regional trends with regard to gender, sexuality, violence against women, and reproduction, with specific attention to sexual and reproductive rights, socio-economic justice, and women's human rights.
- Engage in strategic regional planning on responses to recent national court decisions (supreme and constitutional courts) as well as decisions of international tribunals and bodies (e.g. *Jessica Lenahan (Gonzales) v. U.S.*, *González and Others v. Mexico* "Campo Algodonero," *Valentina Rosendo Cantú v. Mexico*, *Karen Atala v. Chile*, *Ana Victoria Sánchez Villalobos and Others v. Costa Rica*, "Amelia" (Nicaragua)).
- Cross-fertilize ideas and strategies regarding the implementation of international human rights norms in domestic law and policy frameworks, including national courts and legislation with attention to the application of human rights developments generally.
- Promote exchange between advocates working on gender, sexuality and women's rights issues from different countries from the Americas and identify common threats and opportunities for collaboration.
- Strengthen, reinvigorate and broaden existing networks of advocates, academics and human rights practitioners and reinforce existing hemispheric coalitions committed to women's rights, gender-sensitive human rights generally and in particular, reproductive and sexual rights.
- Foster the creation of an Inter-American Gender Justice Network that includes advocates and scholars from Latin America, the Caribbean, the United States, and Canada.
- Examine the opportunities that a human rights approach may offer to make connections between the fields of reproduction, violence, and sexuality – connections which are all-too-often forgotten in our increasingly specialized world.
- Explore the use of international human rights strategies in countries (the U.S. being a prime example) in which advocates, policymakers, and the judiciary have traditionally been skeptical or cautious of such approaches, with explicit attention to different legal and political traditions.
- Discuss how human rights approaches may help bridge differences in legal and political traditions (civil vs common law countries), social justice lawyering, different histories of feminism, and queer and left-progressive movements.

ACCOMMODATIONS

Mayfair Hotel

3000 Florida Avenue
Coconut Grove, FL 33133
(p): 305-441-0000

Mutiny Hotel

2951 South Bayshore Drive
Coconut Grove, FL 33133
(p): (305) 441-2100

CONVENING LOCATIONS

Wednesday evening (6:30-8:30pm):

Mayfair Hotel

(see address above)

Thursday and Friday daytime:

University of Miami School of Business

McLamore Dining Room
5250 University Drive
Coral Gables, FL 33124
(p): 305-284-2211

Thursday evening (7:00pm):

Chart House Restaurant

3371 Pan American Drive
Miami, FL 33133
(p): (305)-856-9741

Shuttle buses from the hotels to and from the University of Miami School of Business will be provided on Thursday and Friday, in the morning and late afternoon. For a complete shuttle schedule, please see your welcome materials at the hotel or ask the hotel staff. While participants are encouraged to take the shuttle buses, University of Miami parking passes are also available for those people with cars; please inquire with the conference organizers.

Day 1: Wednesday, February 23, 2011

6:30–8:30 pm – Opening Cocktail Reception, Mayfair Hotel, Coconut Grove

Day 2: Thursday, February 24, 2011

8:30 am – Shuttle bus from hotels to University of Miami

9:00 am – Breakfast and Registration

9:30–11:00 am – Session 1: Opening Plenary: Transnational Legal Perspectives on Gender Justice and Gender Stereotyping

- **Welcome: Dean Patricia White, University of Miami School of Law, U.S.
Michelle Bachelet, UN Women (video message)**
- **Opening Remarks: Caroline Bettinger-López, University of Miami School of Law, U.S. & Jorge Contesse, Diego Portales University, Chile**
- **Introduction of Keynote Speaker: Nancy Northup, Center for Reproductive Rights**
- **Keynote Speech: Rebecca Cook, University of Toronto Faculty of Law, Canada**

Break – 15 min

11:15 am–12:45 pm – Session 2: Concurrent Panels

The concurrent panels will critically reflect on progress and rollbacks in the regulation of sexuality, violence and reproduction in legislation, policy and jurisprudence in the region, as well as in international human rights case law. Panelists will explore key litigation and advocacy successes to draw common principles and strategies to advance sexual, reproductive rights and to ensure a life free from violence. Moderators are invited to guide discussions encouraging panelists to address how culture and identity (ethnicity, race, migration status, etc.) interplay with the main topics. Commentators will give short comments to enhance discussion. Participants are encouraged to attend panels on less-familiar topics, so as to advance the discussion and bridge our silos.

Panel A: Advancing Reproductive Rights – Achievements and Challenges

This panel will examine the nature, limits and potential of progressive law reform regulating reproduction in the region as well as challenges posed by the (re) emergence of national laws and policies banning or limiting reproductive rights, directly or indirectly, as illustrated by laws decriminalizing abortion in Mexico City, in contrast to its criminalization in Dominican Republic and public policy restrictions to access abortion in the U.S. Topics will include the role of the State in the regulation of reproduction; the interplay of human rights dynamics for progressive law and policy reform; the impact of recent international human rights decisions of the European Court of Human Rights (*A.B.C. v. Ireland*) and the Inter-American Commission on Human Rights (“*Amelia*” case in Nicaragua); and the response by the women’s rights and human rights movements, including movements defending laicism and religious freedom. Questions to be addressed include: What are the discourse and politics behind restrictive laws and policies? What are the risks and potential opportunities of the different frameworks in the regulation of abortion and reproduction? When is the State legitimate in its efforts to regulate women’s bodies and reproductive rights? How can the human rights framework assist with progressive abortion law reform? What risks can be found in the human rights discourse to advance reproductive justice in the region?

Moderator: Alejandro Madrazo – CIDE, Mexico

Commentator: Jill Morrison – National Women’s Law Center, U.S.

Panelists:

- Cynthia Soohoo – Center for Reproductive Rights
- Joanna Erdman – University of Toronto Faculty of Law, Canada
- Paola Bergallo – University of San Andrés, Argentina
- Sergia Galván – Colectiva Mujer y Salud, Dominican Republic

Panel B: Sexual Rights – Beyond Recognition?

This panel will focus on progress and challenges to advance rights related to (homo) sexual orientation and gender identity (namely transgender rights) in the quest for equal citizenship and social equality. The panel will explore legal developments granting same-sex couples marital, custodial and economic rights in domestic and international spheres (i.e. constitutional court rulings of Mexico and Colombia and the case of *Karen Atala v. Chile* before the Inter-American system) and the disparate recognition of sexual rights across the region. Topics will include the obstacles that advocates in different geographic and political settings face in confronting “heteronormativity,” patriarchy, and economic and cultural disparities deeply rooted in society; sex outside marriage and sex work; how human rights developments can contribute to broader social acceptance of diverse sexualities and gender identity interests; and the range and adequacy of sexual rights concerns covered in human rights instruments, doctrine, and jurisprudence. Some questions include: What are the core principles and standards that human rights advocates should turn to in order to protect diverse sexual and gender identities? Is the legal framework adequate to address the range of sexual rights?

Moderator: Esteban Restrepo – University of Los Andes, Colombia

Commentator: Patricia Palacios – University of Chile, Chile

Panelists:

- Juan Marco Vaggione – National University of Córdoba, Argentina
- Suzanne Goldberg – Columbia University Law School, U.S.
- R.J. Thompson – Woodhull Freedom Foundation, U.S.
- Esther Vicente – Inter-American University of Puerto Rico, Puerto Rico

Panel C: Violence Against Women – Access to Justice, Bystander States and Exporting Models

This panel will explore challenges in accessing justice and obtaining reparations in cases of gender-based violence, revisiting the due diligence standard when States tolerate violence committed by private and third-party actors (“bystander states”). Discussions will also draw on the experience of exporting law and policies addressing domestic violence and sexual assault from the U.S. to other countries, and unpack the advantages and risks in doing so. Topics will include the effectiveness of legal responses to address violence against women by governmental, private and international actors; the reliance on criminal justice solutions to violence and sexual orientation discrimination; the distinct experiences of ethnic, racial and immigrant women encountering violence; the extent to which “exporting models” reinforce discriminatory stereotypes and oppressive practices and whether and how human rights dynamics interfere in this approach. Some questions include: Is justice possible where legal principles do not fully account for women’s social and economic needs and realities, especially women in high conditions of risk? What are the intended (or unintended) consequences of a criminal justice-based response to violence against women? Should the human rights framework hold “exporting” States accountable for their contributions to flawed systems of gender justice in less developed countries? What effect have the models to prosecute gender-based violence by international criminal tribunals in the work of advocates in the Western Hemisphere had?

Moderator: Elizabeth Schneider – Brooklyn Law School, U.S.

Commentator: Mary Beloff – University of Buenos Aires, Argentina

Panelists:

- Carmen Hein de Campos – CLADEM, Brazil
- Donna Coker – University of Miami School of Law, U.S.
- Haydée Birgin – ELA, Argentina
- Morena Herrera – Agrupación Ciudadana por la Despenalización del Aborto Terapéutico, Ético y Eugenésico, El Salvador

Panel D: Right to Health – Discrimination and Conscience

This panel will discuss the relationship between health, discrimination and conscience, exploring recent trends in relation to sexual and reproductive health, criminalization and punishment of individuals exercising reproductive choice, legal frameworks for addressing conscientious objections by medical professionals to abortion, and government-sponsored discrimination against persons with HIV/AIDS. Topics include: the discriminatory effects of laws, policies and practices that control sexual and reproductive behavior; denial of health care to persons in the military with HIV/AIDS; religious restrictions in health care; and an in-depth analysis of the figure of conscientious objection in relation to women's rights and health care professionals. How can human rights frameworks assess the types and effectiveness of measures and programs to prevent violence and discrimination related to health? What are the ethical responsibilities of conscientious objectors and how should abuses of conscience by health providers be addressed? What are the challenges to protect sexual and reproductive choices when religious beliefs coexist with health care necessities? What strategies are advocates advancing to ensure the rights of people living with HIV/AIDS, including building bridges across differently affected sectors? How are advocates understanding the critical interplay of race, gender, sexuality, social exclusion, religion and conscience in their efforts to combat discrimination and violence regarding health?

Moderator: Beatriz Galli – IPAS, Brazil

Commentator: Ximena Casas – Planned Parenthood Federation of America (PPFA)

Panelists:

- Bernard Dickens – University of Toronto, Faculty of Law, Canada
- Pedro Morales – Medilex, Mexico
- Susan Fogel – National Health Law Program, U.S.
- Ysabel Marín – PROMSEX, Peru

12:45–2:00 – Lunch

2:00–3:15 pm – Session 3: Plenary: Gender, Sexuality, Violence and Global Development

This session will begin with a report-back on the previous session. Commentators and convening participants will then explore linkages in the streams of advocacy and scholarship on sexuality, reproduction, health, gender-based violence and economic justice. The inquiry will focus on the question: What are common challenges in achieving social justice, gender equality and global development? Topics of discussion will include the conceptual differences between sexual and reproductive rights and how these differences impact their exercise and practice; the relationship between human rights and global development; areas of tension and disagreement among advocates working in sexuality, violence and gender that may foster inconsistencies in advocacy approaches and prevent formation of coalitions; strategies for addressing tensions and gaps in advocacy; and how human rights principles can advance sexual and gender justice. Some questions include: When and how is a rights-based approach used in international development schemes? How can we overcome troubling areas in advocacy related to the ways in which government and private funding can shape work agendas in sexuality, violence, and gender and create competition among advocates? How do legal and political histories (for advocates as well as for institutional policy makers) matter in these distinctions and challenges? What human rights principles are most relevant to advance sexual and gender justice in today's world?

Moderator: Martha Davis – Northeastern University School of Law, U.S.

Commentators:

- Alice Miller – Yale Law School, U.S.
- Jill Morrison – National Women's Law Center, U.S.
- Patricia Palacios Zuloaga – University of Chile, Chile
- Mary Beloff – University of Buenos Aires, Argentina
- Ximena Casas – Planned Parenthood Federation of America (PPFA)

Break – 15 min

3:30–5:00 pm – Session 4: Round Table: Transnational Advocacy, Gender and International Human Rights Systems

Session Facilitator: Caroline Bettinger-López – University of Miami School of Law, U.S.

Discussants:

- Elizabeth Abi-Mershed – Inter-American Commission on Human Rights (IACHR)
- Jorge Contesse – Diego Portales University, Chile
- Luisa Cabal – Center for Reproductive Rights
- Paola García-Rey – Human Rights Institute, Columbia University Law School, U.S.

This roundtable will analyze recent developments in human rights case law and jurisprudence in the Americas and at the international level to foster comparative analysis and examine regional contributions to international human rights law. Topics will include the contributions of the Inter-American system (IAS) and the United Nations (UN) (through special rapporteurs, treaty bodies, working groups, etc.) to the development of global standards on gender and sexuality; the influence of European human rights standards on these two systems (IAS and UN); strategies for domestic implementation of key IAS and UN resolutions/decisions/reports on gender/sexuality, the effective utilization of advocates in international and regional human rights mechanisms; and strategies for strengthening transnational human rights advocacy networks. Discussants will compare the approaches of the various human rights systems toward gender discrimination, violence against women, sexual identity and health, and reproductive rights. What are the framing values that underlie the approaches of these systems? Where are the similarities and differences? Where can transnational advocacy and collaborations be most effective?

5:30 pm – Shuttle bus from University of Miami to hotels

7:00 pm – Dinner at Chart House Restaurant (Coconut Grove)

****We will walk from the hotels to the restaurant. There will also be taxis available.****

7:30 pm – “*Our Bodies Are Still Trembling: Haitian Women’s Fight Against Rape*”

Dinner presentation on transnational advocacy to address gender-based violence in post-earthquake Haiti.

- Marleine Bastien – Fanm Ayisyen Miyami, Inc. (FANM) / Haitian Women of Miami
- Lisa Davis – MADRE / City University School of Law (CUNY), U.S.
- Colette Lespinasse – Group Support of Refugees and Repatriated Persons (GARR), Haiti
- Cathy Albisa – NESRI / City University School of Law (CUNY), U.S.

Day 3: February 25, 2011

8:30 am – Shuttle bus from hotels to University of Miami

9:00 am – Breakfast

9:30–10:45 am – Session 5: Opening Plenary: Addressing Violence Against Women in the Americas

- **Welcome and introductory remarks: Risa Kaufman – Human Rights Institute, Columbia University Law School, U.S.**
- **Introduction of Keynote Speaker: Luisa Cabal – Center for Reproductive Rights**
- **Keynote Speech: Susana Chiarotti – INSEGNAR and CLADEM, Argentina**

Break – 15 min

11:00–12:30 pm – Session 6: Plenary: Deconstructing Institutional Violence – Settings and Actors

Attention to violence and women is, for the most part, focused on private settings; little has been done in advocacy or academic circles to address violence that occurs in institutional settings, and in particular, violence involving public institutions where the perpetrators may be State agents and/or when the State does not act to remedy such violations, especially in contexts of social and economic inequality of the victims. Violence may be gendered and/or sexualized and the victims extend to a wide range of non-heteronormative women, men and trans persons. This session will explore institutional violence in different areas, including sexual abuse of girls in schools, state sterilization programs, denial of life saving health care to women, and shackling of pregnant women in prisons. Speakers will examine characteristics of the settings that foster institutional violence; transnational trends; strategies for documenting and addressing its systemic nature; ensuring accountability; and leveraging recent developments in regional and international human rights jurisprudence (*i.e.* “*Campo Algodonero*”, *Valentina Rosendo Cantú v. Mexico*, *Jessica Lenahan (Gonzales) v. U.S.*, *Opuz v. Turkey*). Some questions to be addressed include: Are there transnational trends to be discovered from examining specific examples of institutional violence? How can we document its systemic nature, ensure state responsibility and create enforceable remedies that take the systemic nature of the problem into account? How are individuals of different sexual orientations/identities and of distinct ethnic, racial, cultural, and migrant backgrounds and sexual orientation affected by institutional violence?

Moderator: Julie Goldscheid – City University School of Law (CUNY), U.S.

Commentator: Tamara Lave – University of Miami School of Law, U.S.

Speakers:

- Bernard Duhaime – University of Quebec in Montreal, Canada
- Deborah Labelle – American Civil Liberties Union (ACLU) of Michigan, U.S.
- Katherine Romero – Women’s Link Worldwide, Colombia
- Mónica Arango – Center for Reproductive Rights

12:30–2:00 pm – Session 7: Break-out Groups

**Lunch will be served*

Break-out groups will analyze critical issues in the region and discuss strategies for transnational advocacy.

Group A – Monitoring Mechanisms on Gender Justice

This group will explore the nature and impact of different mechanisms for monitoring gender justice in the Americas as tools for transnational advocacy and cross-fertilization. What is the relationship between litigation, report writing, data collection and policy advocacy? How should monitoring mechanisms employ human rights principles and instruments? What are particular challenges in federalist states for instituting monitoring mechanisms and making them meaningful? What are the strengths and weaknesses of these mechanisms across diverse and evolving sexual and reproductive rights issues? In particular how can we ensure progressive developments within and across legal systems with and without specific gender mandates?

Session Facilitator: Marianne Mollmann – Human Rights Watch

Commentators:

- Liliana Tojo – CEJIL
- Mariela Belski – ADC, Argentina
- Mirna Montenegro – Observatory of Reproductive Health, Guatemala
- Robin Phillips – The Advocates for Human Rights, U.S.

Group B – Women’s Rights in Conflict Situations and Fragile States

This group will explore the approach and experience of three countries to advance women’s rights in conflict situations or fragile states. It will focus on the struggle that advocates often face over the extent to which conflicts can be both destructive of valued sexual and reproductive norms, and yet can also allow openings for new gender and sexual roles. The discussion will focus on Haiti’s displacement camps post-earthquake, Colombia’s armed conflict and Peru’s efforts toward post-conflict transitional justice. What are the particular challenges of promoting gender justice in conflict and transitional situations and fragile states; in inter-personal as well as political spaces; in structures and systems of health and other services essential to gender equality; and in building cultures of accountability? How have international human rights mechanisms been used effectively (or not) to protect women from violence and discrimination in urgent civil and social crisis? How have similar problems of displacement and reconstruction been handled by communities in other regions of the world with an eye toward gender equality?

Session Facilitator: Deena Hurwitz – University of Virginia Law School, U.S.

Commentators:

- Julissa Mantilla – Pontifical Catholic University of Peru, Peru
- Liliana Chaparro – Sisma Mujer, Colombia

- Lisa Davis – MADRE, U.S./ CUNY School of Law, U.S.

Group C – Migration and Advocacy Across Borders

This group will explore emergent issues regarding migration, sexuality, reproduction, and gender-based violence in borderlands, looking at effective examples of alliance-building and advocacy across borders. Where and how can a human rights framework help build alliances among advocates and cross-border collaboration? What lessons can be drawn from advocacy on *fronteras* and from considering the transnational dimension of any given migration situation? How are sexual and reproductive health services, policy and advocacy related?

Session Facilitator: Colette Lespinasse – Group Support of Refugees and Repatriated Persons (GARR), Haiti

Commentators:

- Jennifer Hill – Florida Immigrant Advocacy Center (FIAC), U.S.
- Karen Musalo – University of California Hastings College of the Law, U.S.
- Luz Esthela Castro – Centro de Derechos de Mujeres, Mexico
- Sarah Buel – Arizona State University College of Law, U.S.
- Sital Kalantry – Cornell Law School, U.S.

Group D – Reproductive Technologies and Scientific Developments

This group will explore the challenges posed to advocates by reproductive technologies. These technologies can subvert or strengthen dominant heteronormative norms around gender and sexuality: How have women's rights advocates responded to developments in science and technology in the past, and what are future strategies? Specifically, what are the strategies to consider the implications and take steps to advance specific cases concerning in-vitro fertilization and other reproductive technologies before human rights bodies? How can we work to link health and rights understandings of these technologies, and contribute to new alliances?

Session Facilitator: María Luisa Sánchez Fuentes - GIRE, Mexico

Commentators:

- Larissa Arroyo – Colectiva por el Derecho a Decidir, Costa Rica
- Mónica Roa – Women's Link Worldwide, Colombia

- Virginia Gómez – Fundación Desafío, Ecuador

Group E – Disadvantaged Groups and Social Exclusion

This Break-out group will explore strategies to advance human rights of disadvantaged persons and groups and their impact on gender and human rights advocacy and scholarship in their struggle against social exclusion. The use of litigation, public policy, public discourse and communication in the media will be analyzed to address rights of historically-excluded persons and disadvantaged groups. How do advocates frame their claims regarding persons with different ethnic, racial, economic, age or economic conditions who are exposed to greater conditions of risks? How do advocates take into account in the agenda for social change historically excluded persons such as persons with different sexual orientations; girls, afro-descendants, indigenous women, rural women, etc.? How do we accommodate heterogeneity of women and diverse sexuality in the legislation and public policy? How are advocates integrating the rights of disadvantaged persons/groups in the political discourse given their complexity? How do exclusions based on race, class, disability, and social status interfere with human dignity, and are our contemporary politics capable of engaging jointly with gender, race, class, sexuality, disability, social status, among other issues for common claim to human dignity?

Session Facilitator: Jurema Werneck – ONG CRIOLA, Brazil

Commentators:

- María Eugenia Solís – La Cuerda, Guatemala
- Philomena Kebec – Indian Law Resource Center, U.S.
- Susan Stefan – University of Miami School of Law, U.S.

Break – 15 min

2:15–3:45 pm – Session 8: Plenary: Gender Equality and Economic Autonomy – Old Gaps and New Opportunities

This panel will explore the relationship between economic autonomy, sexual self-determination and gender equality. The discussion will address how advances in women's economic autonomy, such as control over material goods and intellectual resources, family assets and income are closely linked with access to fully-participatory democratic spaces, physical autonomy, the possibility of making free decisions in the sexual and reproductive field, and living free from violence. Special attention will be drawn to economic disparities within and across nations in the distribution of income, labor market structures and participation and working opportunities affecting women, ethnic groups and sexual minorities, especially in Latin America and the Caribbean. Other topics will include obstacles to the justiciability of labor, social security, housing, access to health and property rights of women and others outside of masculine privilege; and the interplay between identity, culture and economic disparities in diverse societies in the realization of social and economic rights. How is the feminization of poverty related to the development agenda and the realization of human rights? What are the challenges at the national and the international level to enforce social and economic rights? What considerations should be borne toward individuals with special needs and individuals of different sexual orientations and distinct ethnic, racial and social conditions when advocating for legislation and public policies regarding economic and social distribution?

Moderator: Rosa Celorio – Inter-American Commission on Human Rights (IACHR)

Speakers:

- Julieta Montaña – Oficina Jurídica para la Mujer, Bolivia
- Cathy Albisa – National Economic and Social Rights Initiative (NESRI) / City University School of Law (CUNY), U.S.
- Deborah Weissman – University of North Carolina School of Law, U.S.
- Lisa Crooms – Howard University School of Law, U.S.

Break – 15 min

4:00–5:30 pm– Session 9: Closing Plenary: Moving Forward

The objective of this concluding session will be to wrap-up the Convening and do a final critical reflection to advance priority issues identified by advocates and academics regarding violence, reproductive rights, sexuality and economic justice. Emerging activists and academics will share their perspectives on transnational advocacy and strengthening of regional networks.

Moderator: Alice Miller – Yale Law School, U.S.

Commentators:

- Macarena Sáez – American University Washington College of Law, U.S./ Red ALAS
- Julia Mello Neiva – CONECTAS, Brazil
- Alma Beltrán y Puga – Diego Portales University, Chile
- Jill Adams – Law Students for Reproductive Justice, U.S.
- Pamela Spees – Center for Constitutional Rights, U.S.

5:30–5:45 pm – Closing Session

Closing Remarks: Diana Hortsch, Center for Reproductive Rights

6:00 pm – Shuttle bus from University of Miami to hotels