
NOVEMBER 2023

HEALTH AND HUMAN RIGHTS INITIATIVE

INITIATIVE REPORT

**O'NEILL
INSTITUTE**
FOR NATIONAL & GLOBAL HEALTH LAW

GEORGETOWN LAW



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HEALTH AND HUMAN RIGHTS INITIATIVE: INITIATIVE REPORT
O'NEILL INSTITUTE FOR NATIONAL AND GLOBAL HEALTH LAW, GEORGETOWN
LAW
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"With health rights and human rights around the world under threat, our work has never been more important."



Oscar A. Cabrera, Co-Director



"Our work is making a difference in the world to improve health outcomes for all, especially for populations historically disadvantaged."



Silvia Serrano Guzmán, Co-Director



Our Team

Natalia Acevedo Guerrero, *Senior Consultant*

Isabel Barbosa, *Senior Associate*

Kimberley Benjamin, *Consultant*

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ABOUT THE HEALTH AND HUMAN RIGHTS INITIATIVE

Formerly the Healthy Families Initiative

The Health and Human Rights Initiative (HHRI) works to improve health through applied academic research that focuses on the nexus of health and national and international human rights frameworks. Our team collaborates closely with local partners to build capacity, provide technical assistance, and pursue the strategic use of the law in health and human rights issues, especially in Latin America. The work of the Health and Human Rights Initiative seeks to maximize the real-world impacts of law and policy, and academic scholarship.

The initiative changed its name in late 2021 to the Health and Human Rights Initiative to reflect the nature of our work at the nexus of health and human rights.

The team is grateful to the O'Neill Institute for National and Global Health Law, Georgetown Law, and the initiative's many generous funders and partners who make this work possible.



HOW WE WORK

Each of HHRI's research projects relies on a methodology that can be applied to a range of health topics and adapted to fit the needs of diverse local contexts.

HHRI's research projects not only formulate innovative law and policy solutions for a given health problem in a specific context, but also evaluate their relevance for other health topics and applicability in other countries.

HHRI carries out its work in close collaboration with local partners – including academia, government, and civil society – prioritizing engagement of new constituencies and fostering cross-country, cross-disciplinary, and cross-movement dialogues across each of its projects.

The HHRI methodology for transforming rigorous legal research and analysis into real-world law and policy solutions relies on the following core strategies: academic scholarship, capacity building, and technical assistance.

CORE STRATEGIES

ACADEMIC SCHOLARSHIP

A focus on systematizing, generating, and disseminating innovative legal theories and arguments related to priority health and human rights topics in academic scholarship.

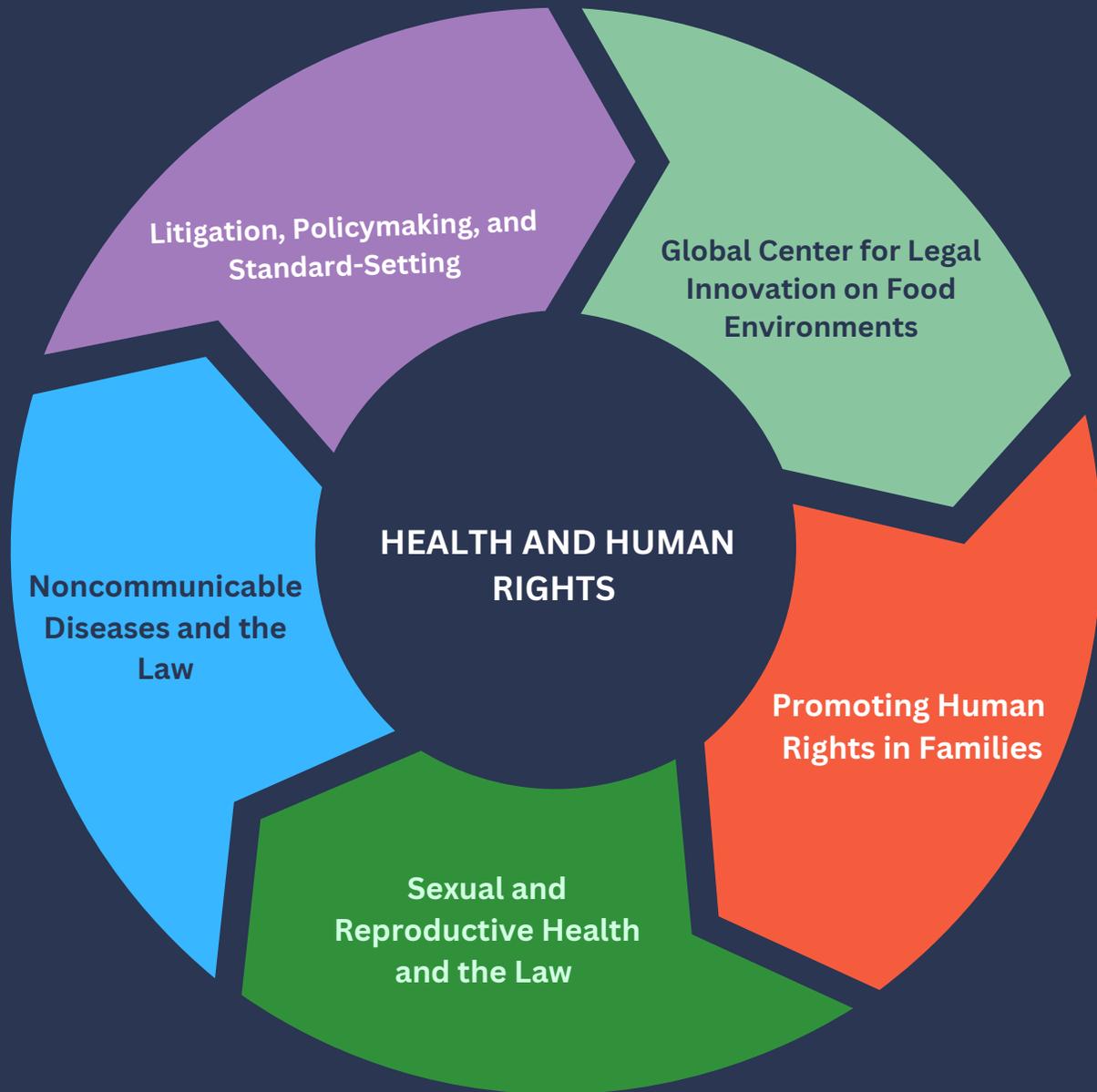
CAPACITY BUILDING

A focus not only on strengthening the ability of current and future lawyers to engage in law- and policy-making on priority health and human rights topics, but also on enhancing the familiarity and expertise of other legal actors (judges, government lawyers, etc.) related to these topics.

STRATEGIC USE OF THE LAW

A focus on conducting or facilitating targeted interventions in law and policy reform efforts related to priority health topics (amicus briefs, expert testimony, etc.) that enhance the impact of those interventions. This work includes the provision of technical assistance, strategic litigation, and standard-setting.

AREAS OF WORK



LITIGATION, POLICYMAKING, AND STANDARD-SETTING

This area of work focuses on engagement in domestic and international litigation and standard-setting processes to advance health, justice, and equity in all of its dimensions through the strategic use of human rights legal frameworks. Strategic use of the law includes directly representing individual and collective victims of human rights violations, as well as providing technical assistance to relevant actors involved in legislative drafting, policymaking, and judicial practice. The HHRI conducts academic research and analysis aimed at informing the adoption of laws and policies that advance justice and equity in the provision of health care services. The HHRI also compiles, analyzes, and disseminates health and human rights legal standards.

LITIGATION

Martina Vera Rojas and Others v. Chile

On November 18, 2021, the Inter-American Court of Human Rights (IACtHR) issued a landmark judgement on the right to health in the Inter-American Human Rights System. The judgment clarifies that the right to health extends to palliative care and rehabilitation, particularly in cases of children with disabilities. The Court ruled that States have a duty to regulate, monitor, and oversee the activity of all public and private actors that finance the healthcare system. This is the first time that the IACtHR has declared a violation of the principle of non-retrogression in economic, social, and cultural rights. The HHRI represented the victims alongside local lawyers. As direct representatives of the victims, the team worked throughout 2022 in the wake of the judgement to assess compliance with the judgement and its recommendations, and to maximize its impacts.

Liolita and others v. Brazil

In July 2022, the HHRI joined the Defensoria Pública do Estado do Rio de Janeiro (DPERJ) on this case as co-petitioners. Filed before the Inter-American Commission of Human Rights (IACHR), this case presents a number of individual complaints about inadequate resource allocation and specifically on intensive care units (ICUs) in Brazil - focusing principally on long wait times, and the violations of the right to health and the right to life that can result from delays in transfers into an ICU.

LITIGATION

Casa Esperanza, Mexico (IACHR)

In July 2023, the HHRI and Disability Rights International (DRI) presented arguments on behalf of the victims of the “Casa Esperanza” case in a public hearing on the merits before the IACHR. The case concerns institutionalization and abuses of persons with disabilities in Casa Esperanza, a private institution that received public funds to provide services to persons with psychosocial and intellectual disabilities. Some of the most egregious human rights violations included the forced sterilization, sexual abuse, use of physical and chemical restraints, and deaths of the patients. The HHRI and DRI’s argued that Mexico is internationally responsible for the torture, sexual slavery, human trafficking, servitude, forced labor, non-consensual sterilization, child exploitation, and right-to-health violations of the victims at Casa Esperanza, and emphasized that the State’s institutionalization of the victims constituted discriminatory treatment, denial of their rights to live independently and to receive health and care services in the community.

Federico Mora Hospital, Guatemala (IACHR)

In 2022, the HHRI joined DRI as a co-petitioner in the case and precautionary measures of “334 patients of the Federico Mora Hospital in Guatemala,” pending before the IACHR. The case concerns the institutionalization and horrific conditions of detention of 334 individuals at the Federico Mora Hospital in Guatemala, a publicly-funded psychiatric institution, and the human rights violations perpetrated therein. The facts of the case take place against the backdrop of a lack of community services for persons with mental disabilities in Guatemala, and a guardianship regime that precludes persons with mental disabilities admitted to a psychiatric institution from exercising their rights.

Colombian ICUs Litigation

In July 2023, the Constitutional Court of Colombia released its decision in the judgment T-237, ordering the Ministry of Health to regulate so-called “ethical triages” during health emergencies in the country. The Court recognized that the Ministry failed to regulate prioritization decisions for access to health services during the COVID-19 pandemic, jeopardizing the rights to health and to equality and nondiscrimination of the users of the Colombian health system. The decision came after 26 people with disabilities, individuals over 60 years of age, and individuals with chronic health conditions – with the support of the HHRI and the Action Program for Equality and Social Inclusion (PAIIS) at the Universidad de los Andes Law School – filed a “tutela,” a constitutional lawsuit in 2021 against the Ministry of Health. The lawsuit asked the Ministry to issue clear guidelines that prevent discrimination in the development and implementation of ethical triage recommendations in the context of the COVID-19 pandemic. In the judgment T-237 of July 2023, the First Chamber of Review of the Constitutional Court ruled in our favor and ordered the Ministry of Health to issue binding regulations on the matter. The Court noted that these regulations should be discussed in a participatory and transparent way, including inputs from relevant actors, such as organizations representing people with disabilities and older people. This important judgment recognized that the prioritization of scarce health resources in an emergency cannot escape the scrutiny of the Constitution.

POLICYMAKING AND STANDARD-SETTING

Case of La Oroya Community v. Peru (IACtHR)

In November 2022, Oscar A. Cabrera was invited by the IACtHR to act as an expert witness in the case of La Oroya Community v. Peru, concerning the State’s responsibility for the human rights violations linked to the pollution caused by a metallurgical complex in the community. Cabrera’s affidavit addressed the content and scope of State obligations in the face of the risks and adverse health impacts generated by environmental pollution, considering the State’s role in the creation and continuity of such risks.

Repository: The Right to Health in Mexican, Latin American, and International Case Law

In December 2022, the HHRI, in partnership with the Mexican Consejo de la Judicatura (Mexican Judicial Council) launched the Repository: The Right to Health in Mexican, Latin American, and International Case Law. This repository includes close to 200 judicial decisions issued between 2011 to 2022 – compiled with the objective of identifying and disseminating judgements that contribute to advancing the right to health in all its dimensions. The repository includes emblematic health-related rulings from the Mexican Federal Courts and the Supreme Court; High Courts in Latin America and the Inter-American Court; as well as decisions issued by the Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of Discrimination against Women in individual communications. The repository contributes to the development and advancement of the right to health at the regional level and to the recognition of all the components of the right to health, not limiting its scope to care, but also including prevention and the social and commercial determinants of health. The repository will be vital for the work of Mexican judges, other judicial actors in Mexico, and for various actors in the Latin American region.

Right to Health and Persons with Disabilities

In September 2022, the HHRI presented documents to inform the creation of an Inter-American Commission on Human Rights report about the rights of persons with disabilities in the Americas. This document analyzed the health discrimination that people with disabilities face in the region, with an emphasis on the contexts of Colombia and Chile. We specifically explored how people with disabilities faced discrimination and different attitudinal barriers accessing health services and ICUs in the context of the COVID-19 pandemic.

Promoting Human Rights at the End of Life

Throughout 2022, the HHRI conducted research and participated in judicial and legislative debates around human rights standards for the provision of end of life care. The initiative contributed to the debate in two cases on dignified death before the Constitutional Court of Colombia. The HHRI presented an amicus to the Constitutional Court in the case of a woman with a degenerative disease who had been denied access to the practice, and presented a letter of insistence to the Court to review the case of a terminally ill man who could not access the practice without an advance directive.

NONCOMMUNICABLE DISEASES AND THE LAW

This area of work develops technical analyses of international and comparative domestic legal frameworks to inform litigation and law and policy reform processes at the national, regional, and global levels. Using the lens of commercial determinants of health, the HHRI focuses on modifiable risk factors, including tobacco, alcohol, and unhealthy diets- prioritizing accountability and the regulation and accountability of corporate actors. The HHRI advances work on noncommunicable diseases prevention, tobacco control, and obesity prevention through research, capacity building, advocacy, and litigation.

In 2022, HHRI team members contributed papers to the book, *International Human Rights Law and the Framework Convention on Tobacco Control: Lessons from Africa and Beyond* (edited by Ebenezer Durojaye and Lucyline Nkatha Murungi). This book reviews the challenges and opportunities in the implementation of the WHO Framework Convention on Tobacco Control (FCTC) at the regional and national levels in Africa. It contains an analysis of the relevant norms and monitoring mechanisms at the regional level, and case studies from selected African and other developing countries.

In collaboration with the International Legal Consortium at the Campaign for Tobacco-Free Kids, the HHRI co-organized the Legal Fellowship Programs – one global and one specific for Africa – in tobacco control law and policy. These 18-month, part-time programs are a unique opportunity for practicing lawyers to contribute to and benefit from the specially-developed curriculum, designed to build legal capacity by creating a cohort of lawyers that will join existing tobacco control networks in their countries and regions.

The HHRI also provided ongoing technical assistance on tobacco control measures in Argentina, Brazil, and Uruguay.



The 26 graduating fellows (practicing lawyers from 19 countries) at the graduation of the 18-month Legal Fellowship Programs in Tobacco Control Law and Policy

In September 2022, the Uruguayan government issued an executive decree (Decree 282/022, regulating Law 19.723) that loosened the country's tobacco plain packaging law, a law that is praised as a global model in tobacco control. As a result, the HHRI, alongside the Campaign for Tobacco Free Kids, assisted local partners in litigation against such a reform, using an innovative legal strategy that relied on a procedural mechanism created to protect children and adolescents, previously underutilized. As a result, a Uruguayan Court suspended the application of the challenged decree, arguing that it unlawfully and unconstitutionally jeopardized children and adolescents' right and infringed both the national legal framework and Uruguay's obligations under international health and human rights law. The Court specifically stated that children's rights should prevail over economic considerations, creating a landmark precedent for the country and the region.



In November, we participated in the International Society of Public Law (ICON-S) – Colombia Chapter's annual conference held in the University of the North (Universidad del Norte) in Barranquilla, Colombia. This conference brought together top legal scholars and judicial actors from all over the country to discuss pressing public law issues.

Oscar A. Cabrera, Silvia Serrano Guzmán, and Valentina Castagnari, as well as Adriana Carolina Torres Bastidas from DeJusticia, presented on the constitutional law debates related to the promotion of healthier food environments, specifically front-of-package labeling, health-promoting taxes, marketing restrictions, and healthy school environments.

In May 2022, HHRI team members presented research on a coherent regulatory approach to cannabis, alcohol, tobacco, and unhealthy food at the “International Conference on Tobacco, Law and Human Rights: crossing borders, spaces and substances” at the University of Groningen in the Netherlands.



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 groningen

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GLOBAL CENTER FOR LEGAL INNOVATION ON FOOD ENVIRONMENTS



In February 2020, the Health and Human Rights Initiative launched the Global Center for Legal Innovation on Food Environments. The Global Center serves as a transnational venue for legal research, capacity building, and technical assistance related to the different legal and policy aspects of diet-related noncommunicable diseases prevention. In collaboration with global and local partners, the Global Center builds connections between academic and applied initiatives, amplifying the impact of both in the process.

In particular, the Global Center: (1) systematizes, generates and disseminates knowledge on healthy food law and policy; (2) builds capacity to further strengthen the work being done in the field; and (3) provides technical assistance to practitioners throughout the world across international organizations, governments and civil society.



GLOBAL CENTER FOR
**LEGAL INNOVATION ON
FOOD ENVIRONMENTS**

An Initiative of the O'Neill Institute at Georgetown Law

COLLABORATIONS



Global Center work is carried out in close collaboration with partners around the world. In 2022, those partners included the Grupo Direito e Políticas Públicas (Law and Public Policy Group) at the Universidade de São Paulo and Pontifícia Universidade Católica (Pontifical Catholic University) of Rio de Janeiro in Brazil, the SAMRC/Wits Centre for Health Economics and Decision Science (PRICELESS SA), the Dullah Omar Institute at the University of the Western Cape in South Africa, Section 27 in South Africa, and the Law and Health Research Unit at the University of the West Indies.

The Global Center also co-leads workshops, trainings, and conferences with partners and a variety of organizations and nongovernmental organizations (NGOs).

THE GLOBAL CENTER 2022

SCHOLARSHIP

In 2022, the Global Center led the publication of a special issue on commercial speech and the commercial determinants of health of the Journal of Law, Medicine & Ethics, co-edited by the Global Center and the Law & NCD Unit at the University of Liverpool. This publication featured pieces by Global Center team members and is now open-access.



Global Center team members, and Nicole Foster from the Law and Health Research Unit with workshop participants in Barbados.

The Global Center partnered with the Law and Health Research Unit at the University of the West Indies, Cave Hill, to co-host an in-person workshop in Barbados, aimed at further developing scholarship selected for the upcoming special issue on “Unhealthy Food, Alcohol, Tobacco and the Law” in the Caribbean Law Review, co-edited by the Global Center and Law and Health Research Unit.

The Global Center welcomed the publication of a special issue on the regulation of food environments in Brazil in the Journal of Institutional Studies (Revista de Estudos Institucionais REI) in Brazil, co-edited by the Global Center and the Law and Public Policy Group at the University of São Paulo. This open-access publication featured pieces by Global Center and the Law and Public Policy Group team members, in addition to other pieces submitted in an open call.



CAPACITY BUILDING

In June 2022, in partnership with the Consejo de la Judicatura Federal (Federal Judicial Council) in Mexico, the Global Center also held a three-day symposium entitled, “The right to health and the judiciary: dialogues in Latin America.” This symposium was a successful and well-attended event, attracting upwards of 160 people in each session, most of whom were officials from the federal judiciary level in Mexico.

The Global Center partnered with the University of Girona to support the first Michele Taruffo Girona Evidence Week in 2022, a conference examining evidence from the legal perspective that gathered world-class speakers and over 500 participants from across the globe and from different legal traditions.

The Global Center sponsored the attendance of local partners from Barbados, Colombia, Mexico, and South Africa, and held a workshop on evidentiary debates in health and human rights litigation, with an emphasis on regulatory measures and noncommunicable diseases.



SIMPOSIO

EL DERECHO A LA SALUD Y EL PODER JUDICIAL: DIÁLOGOS EN AMÉRICA LATINA

PROGRAMA

Lunes 6 de junio	Martes 7 de junio
<p>Matutino (10:00-12:00)</p> <p>Inauguración</p> <p>Mesa 1: Panorama del derecho a la salud en las Américas</p> <p>Silvia Serrano Directora ejecutiva de la Iniciativa Salud y Derechos Humanos del Instituto O'Neill para el Derecho de Salud Nacional y Global de la Universidad de Georgetown</p> <p>Christian Courtis Experto de la Oficina de la Alta Comisaría de los Derechos Humanos para las Américas</p> <p>David García Sarubbi Secretario de Educación y Control de la Suprema Corte de Justicia de la Nación</p>	<p>Matutino (10:00-12:00)</p> <p>Mesa 3: El derecho a la salud en diálogo con el derecho ambiental</p> <p>Mariana Clemente Fábrega Especialista de cumplimiento ambiental y social y ex abogada de la Corte Interamericana de Derechos Humanos</p> <p>Gabriela Carreón Lee Directora de Derechos Humanos del Centro Mexicano de Derecho Ambiental, A.C.</p> <p>Gloria Porrás Escobar Ex Magistrada de la Corte Constitucional de Guatemala</p>
<p>Vespertino (17:00-19:00)</p> <p>Mesa 2: El derecho a la salud y el derecho penal</p> <p>Adriana Ortega Ortiz Secretaria de Educación y Control de la Suprema Corte de Justicia de la Nación</p> <p>Rebecca Reingold Directora ejecutiva de la Iniciativa Salud y Derechos Humanos del Instituto O'Neill para el Derecho de Salud Nacional y Global de la Universidad de Georgetown</p> <p>Tania Ramírez Hernández Secretaria Técnica adjunta a la Escuela Federal de Formación Judicial del Consejo de la Judicatura Federal</p> <p>Diana Fajardo Rivera Magistrada de la Corte Constitucional de Colombia</p>	<p>Vespertino (17:00-19:00)</p> <p>Mesa 4: El derecho a la salud en diálogo con algunos de sus determinantes</p> <p>Oscar A. Cabrera Director de la Iniciativa Salud y Derechos Humanos del Instituto O'Neill para el Derecho de Salud Nacional y Global de la Universidad de Georgetown</p> <p>Rodrigo Gutiérrez Rivas Investigador Titular "A" del Instituto de Investigaciones Jurídicas de la UNAM</p> <p>Beatriz Cunha Defensora Pública del Estado de Rio de Janeiro</p>
<p>Jueves 16 de junio</p> <p>Matutino (10:00-11:00)</p> <p>Conferencia magistral</p> <p>Alcances del derecho a la salud como derecho autónomo, en relación con el artículo 26 de la Convención Americana sobre Derechos Humanos</p> <p>Soledad García Muñoz Relatora Especial sobre DESCA de la Comisión Interamericana de Derechos Humanos</p> <p>Clausura</p>	

INSCRIPCIONES:
tinyurl.com/26kwss3c

Se otorgará constancia a quien asista al 80% de las sesiones

Informes: derechoshumanosdifusion@correo.cjf.gob.mx

GF | Consejo de la Judicatura Federal | Dirección General de Derechos Humanos, Igualdad de Género y Asesoría Internacional

O'NEILL INSTITUTE | Instituto de Estudios Globales | GEORGETOWN LAW

"Debates probatorios en los litigios sobre salud y derechos humanos"

Coordinado por Oscar A. Cabrera y Silvia Serrano Guzmán



Ponentes

Oscar A. Cabrera
Silvia Serrano Guzmán
Isabel Barbosa
Ariadna Tovar Ramírez

CAPACITY BUILDING



GEORGETOWN LAW

The Global Center facilitated a number of educational and practical opportunities for law students at Georgetown Law. The Global Center team members taught seminar and practicum courses for J.D. and LL.M. students on law and noncommunicable diseases, namely the seminar course, "Industry Epidemics: NCDs, Commercial Risk Factors", and the practicum course, "O'Neill Institute Practicum: Regulating Alcohol, Tobacco & Food in International and Comparative Law." Furthermore, students at Georgetown Law joined the Global Center as research assistants, and students completing their J.D. or J.D.-equivalent degrees in universities from around the world joined the Global Center as interns.

In addition to the capacity-building opportunities provided by the Global Center at Georgetown Law, the team offered numerous opportunities throughout the year in our priority countries. In partnership with the Pontifical Catholic University of Rio de Janeiro in Brazil, the Global Center conducted a module on global health law and NCDs as part of their specialization on health law. The Global Center also taught multiple courses on global health law and NCDs with the University of the West Indies Cave Hill and St. Augustine in the Caribbean ranging from short courses to post-graduate level courses. Finally, the Global Center guest lectured on NCDs for the University of Western Cape's LL.M. module on economics, social, and cultural rights, in South Africa.



THE UNIVERSITY OF THE WEST INDIES
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WESTERN CAPE

STUDENT WRITING COMPETITION

In line with its capacity building mandate on issues related to healthy food law and policy, in 2022, the Global Center launched the second edition of its Food Environments and the Law Student Writing Competition for students pursuing their first degree in law at law schools in Argentina, Brazil, Chile, Colombia, Mexico, Barbados, Jamaica, Trinidad & Tobago, and South Africa.



*Competition Winner
Paula Knipe*

In July 2022, the Global Center welcomed the winner of the 2021 inaugural student writing competition to the O'Neill Institute as an intern. Paula Knipe from the University of Western Cape in South Africa joined the summer program in D.C. for an enriching opportunity to learn and contribute to the Global Center's work.

In December 2022, the Global Center also announced the winner of the second edition of its student writing competition. This edition of the competition challenged law students to address the ways in which the law can be used to promote healthier lives by discouraging the consumption of unhealthy foods and beverages. Daniela Naomi Shimabukuro Nomura from FGV São Paulo Law School in Brazil was selected as the most recent winner with her paper titled, "Nudging vs. Strong Regulations: Will the Brazilian Regulation Regarding Food Labeling Survive?". As the winner of the competition, Nomura joined the O'Neill Institute as an intern in January 2023.



*Competition Winner
Daniela Naomi Shimabukuro
Nomura*

GLOBAL CENTER SCHOLARS AND FELLOWS

The Global Center facilitated a number of educational and practical opportunities for law students at the Georgetown Law. For students seeking an LL.M. in Global Health Law, the Global Center awards scholarships to select exceptional students with a strong substantive interest in healthy food law and policy and with a potential to contribute to the field in their home countries. Upon their graduation, these scholars may be selected for a fellowship program at the O'Neill Institute to collaborate with the Global Center. In 2022, the Global Center welcomed four fellows – previously LL.M. students awarded Global Center scholarships – from Argentina, Barbados, Jamaica, and South Africa (originally from Zimbabwe).

Kimberley Benjamin was a 2021-2022 Healthy Food Law and Policy Scholar, and a 2022-2023 Healthy Food Law and Policy Fellow. Prior to joining the O'Neill Institute, Benjamin worked on various short-term consultancy projects with the Caribbean Court of Justice Academy for Law, the Pan American Health Organization, Office of Subregional Program Coordination, and the Healthy Caribbean Coalition. She also served as an intern at the United Nations Development Program, Subregional Office for Barbados, and the Organization of Eastern Caribbean States. She obtained the Legal Education Certificate from the Hugh Wooding Law School in Trinidad and Tobago to become an attorney-at-law. Benjamin also possesses a BSc. in International Business with French and Spanish from Aston University in the United Kingdom and recently completed a Masters in Legislative Drafting from the University of the West Indies, Cave Hill in her home country of Barbados. Benjamin holds an LL.M. in National and Global Health Law from Georgetown Law.



Kimberley Benjamin



Shajoe Lake

Shajoe J. Lake was a 2020-2021 Healthy Food Law and Policy scholar and is a 2021-2023 Healthy Food Law and Policy Fellow. Prior to joining the O'Neill Institute, Lake worked at an international insurance advisory firm, negotiating personal injury awards and advising insurers in the United Kingdom and the Caribbean on tortious liability cases. Lake has worked with various public health organizations on healthy food law and policy initiatives in the Caribbean. Lake holds a Bachelor of Laws (J.D. equivalent) from the University of the West Indies at Mona, Jamaica. He is a trained attorney licensed to practice in Jamaica, and holds an LL.M. in National and Global Health Law from Georgetown Law.

Tendai Mafuma was a 2021-2022 Healthy Food Law and Policy Scholar and is a 2022-2023 Healthy Food Law and Policy Fellow. Prior to joining the O'Neill Institute, she worked as a legal researcher at SECTION27, a South African organization that advocates for the right to health. Mafuma's areas of work included mental health, health systems reform, sexual and reproductive health rights, access to medicines, and right to food. She also clerked for a justice of the Constitutional Court of South Africa. Mafuma holds an LL.B. and Master of Science in biochemistry from Rhodes University, South Africa, and an LL.M. in National and Global Health Law from Georgetown Law.



Tendai Mafuma



Valentina Castagnari

Valentina Castagnari was a 2021-2022 Healthy Food Law and Policy Scholar and a 2022-2023 Healthy Food Law and Policy Scholar. Prior to joining the O'Neill Institute, Castagnari worked as a Visiting Professor at Universidad Torcuato Di Tella and a researcher at the Center for Studies of State and Society (CEDES), where she focused her research on regulatory interventions to foster the right to food and prevent obesity and noncommunicable diseases. Castagnari is part of the Regional Observatory for the Right to Food (ODA-ALC) and has published her works in prestigious international journals. She has also worked as a consultant on health-related issues in international organizations, including UNICEF in Argentina. Castagnari holds a J.D. from Universidad de San Andrés in Buenos Aires, where she graduated magna cum laude, and an LL.M. in National and Global Health Law from Georgetown Law.



Launched in December 2022, in partnership with the Global Health Advocacy Incubator, FULL is a repository of laws and judicial and administrative decisions across the world with various built-in and customizable features to facilitate food policy-related research. The database offers researchers, policymakers, advocates, and journalists the ability to explore the legal framework related to the prevention of diet-related noncommunicable diseases. Currently, FULL features documents from the following six countries: Barbados, Brazil, Colombia, Jamaica, Mexico, and South Africa.

RECENT DOCUMENTS

COLOMBIA · LAW · LEGISLATION

Law for Promotion of Healthy Food Environments and NCD Prevention

Labeling

School Environment

COLOMBIA · DECISION · JUDICIAL

Colombian Parents' Corporation of Mothers and Fathers, PaPaz Network v. Ministry of Health and Social Protection and others

Marketing

Labeling

Countries



Barbados



Brazil



Colombia



Jamaica

Students, researchers, academics, policy advisers, and advocates working on NCD prevention can use FULL to facilitate their work. This database is a valuable tool for anyone researching the regulatory frameworks applicable to healthy diets and NCDs.

TECHNICAL ASSISTANCE

The Global Center provides important technical assistance on a range of law and policy processes related to the prevention of diet-related noncommunicable disease at both the national and international levels.

The Global Center submitted written input to the Working Group on the issue of human rights and transnational corporations and other business enterprises for its report on corporate influence in the political and regulatory sphere. The document delved into the concept of undue influence in health and food policy, examining the model of Article 5.3 of the WHO Framework Convention on Tobacco Control and exposed how Corporate Social Responsibility activities by the food and beverage industry are being used as a marketing strategy and shaping a favorable environment in regulatory processes. It also presented a series of recommendations in relation to private actors who have irreconcilable or competing interests with public health.



In February 2023, the Global Center presented a submission to the World Health Organization as part of their public consultation on the draft guidelines on fiscal measures to promote healthy diets. Our submission focused on the need to ground the draft guideline more robustly on human rights standards.

TECHNICAL ASSISTANCE

Furthermore, in Mexico, we continued to support the legal defense of the front-of-package labeling regulation. We filed amici curiae briefs, coordinated closely with key actors, such as the Institute of Legal Research at the National Autonomous University of Mexico and the Iberoamerican University, about their own amici curiae briefs and statements, and drew the attention of several international organizations to the issue.

In Colombia, the Global Center submitted an amicus brief in one of the lawsuits challenging their health tax, considering that this specific case included substantive arguments based on the alleged impact of the tax on fundamental rights. The case is currently being heard by the Constitutional Court.



In July 2023, the Global Center sent a submission to the National Department of Health about R3337, their draft regulation on front-of-package labeling and related marketing restrictions. Our submission provided support for these regulations by putting them within the context of international and regional human rights obligations, and by providing support for specific technical aspects, as well as recommendations on how to strengthen them.

PROMOTING HUMAN RIGHTS IN FAMILIES

In 2020, HHRI and BRIDGES launched the Familias: Ahora project, which seeks to establish community-driven platforms that position human rights, gender justice, and social climate, as fundamental to guaranteeing the well-being of families. The project develops and disseminates a narrative around family relationships that appeals to new audiences and fosters the alignment of human rights agendas.



Original content from Familias: Ahora has reached more than 11.5 million people and had nearly 1.7 million interactions.

In 2022, the Familias: Ahora project expanded its work in Chile and Colombia, and launched projects in Nicaragua, Panama, El Salvador, Honduras, Costa Rica, and Guatemala. The Familias project also played an important role in the Chilean constitutional reform process during 2022. Familias: Ahora participated formally in the process by presenting to the drafters of the new constitution at public hearings.



The **Familias: Ahora** project has also engaged extensively with the Chilean constitutional reform process by bringing information to the public through events, including three seminars and panels with experts and lawyers hosted with local and international partners. **Familias: Ahora** created a decalogue with ten key considerations for a constitutional framework that promotes the well-being and development of all kinds of families.



Core Pillars of the Project

01

Facilitating interdisciplinary academic dialogue

02

Supporting grassroots community initiatives

03

Engaging in strategic communications to change narratives

04

Advocating for national, regional, and global level policy reforms

¿Qué pasaría si se aprobaran todos los derechos sexuales y reproductivos?

Parte 1 de 5

Las personas

- Tendrían una relación saludable con su cuerpo y vivirían su sexualidad de una manera saludable, autónoma y responsable.
- Vivirían libremente su sexualidad sin temor a ser estigmatizadas.
- Aquellas con hijos tendrían empleos que les permitieran ejercer su rol de manera presente por más tiempo.
- Las personas con discapacidad podrían decidir sobre su cuerpo en cada proceso de su vida.
- Podrían escoger libremente el género con el que se sientan representadas.
- Las personas privadas de la libertad podrían disfrutar de su vida sexual y reproductiva sin tratos inhumanos.
- No tendrían miedo a ser discriminados por su orientación sexual.

Esta pieza fue creada junto al Movimiento nacional por la salud sexual y reproductiva en Colombia.

¿Cómo acompañar a un familiar que está siendo víctima de acoso sexual?*

- Escúchale.** Sin reproches ni cuestionamientos, permítele expresar libremente las emociones que la situación le genera.
- Evita las presiones.** No preguntes por los detalles de los hechos ni la obligues a hablar del tema. A su debido tiempo, esa persona te contará lo que considere importante.
- Hazle saber que no es su culpa.** Algo que tanto ella como tú deben tener claro es que la responsabilidad recae siempre en la persona que ejerce el acoso.
- Recuérdale que estás a su lado.** En esta situación el apoyo es fundamental. Hazle sentir que estás ahí para acompañar, no para juzgar.
- Ayúdala a tomar decisiones.** Una persona que es víctima de acoso sexual puede sentirse vulnerable y confundida. Pregúntale qué quiere hacer al respecto, plántele posibles caminos y acompáñala en el proceso correspondiente.

*Esta pieza fue creada junto al colectivo Bolívar en Faldas.

¿Estás preparado para la paternidad?

Para ser padre debes estar dispuesto a...

- Acompañar a tu pareja y estar presente en el periodo de gestación y parto o en el proceso de adopción.
- Alimentar, cuidar y jugar con tu hijo o hija.
- Asumir la responsabilidad económica compartida para su bienestar.
- Guiarle con afecto y responsabilidad.
- Resolver las diferencias con tu pareja respecto a cómo educarlo.
- Asumir el posible final de la relación con tu pareja y compartir las responsabilidades de la crianza con ella.
- Dedicarle tiempo diario para compartir juntos.
- Enseñarle acerca del amor, las relaciones de pareja, y las rupturas.
- Apoyarle en los momentos difíciles de su vida.
- Aceptar las diferencias, aun cuando no estés de acuerdo con ellas.

Adaptado de "Papámetro", creado por la Corporación Aporosa y la Alcaldía de Bogotá.

¿Cómo proteger a niños y niñas de la explotación sexual en Internet según su edad?

- 0-2 años** En la medida de lo posible, se recomienda restringir el uso de pantallas.
- 3-5 años** Menos pantallas es mejor. Si se usan deben:
 1. Estar fuera de las habitaciones.
 2. Contar con un sistema de control parental.
 3. Tener la cámara web bloqueada o cubierta.
 4. Usarse máximo 1 hora al día.
 5. Evitarse a la hora de comer y una hora antes de ir a dormir.
- 6 años** Pueden empezar a jugar videojuegos. Revisa que el contenido sea adecuado para su edad y evita los videojuegos con publicidad incorporada o enlaces a sitios externos.
- 9 años** Pueden empezar a navegar en Internet con acompañamiento permanente, definiendo claramente sitios, interacciones, contactos y horarios permitidos.
- 13-15 años** Pueden ingresar a redes sociales, recordando que todo lo que se divulga es público, permanecerá en el tiempo y no siempre es cierto. Explicales que el internet aloja contenidos educativos y pedagógicos pero también contenidos que son inapropiados y pueden afectar su integridad física y mental.

Esta pieza fue creada junto a Red Paraiso.

Familias: Ahora continues to create and produce tools and materials on human rights issues impacting families around the world.



SEXUAL AND REPRODUCTIVE HEALTH AND THE LAW

This area of work uses technical analyses of international and comparative domestic human rights legal frameworks to inform litigation, law and policy reform, and regulation related to reproductive health, rights, and justice throughout Latin America. This work includes critically assessing the impacts of criminal law in reproductive health, including the criminalization of reproductive health services, doctor-patient confidentiality and obstetric violence.



LEGAL AND
ACADEMIC
INTERVENTIONS AT
THE NATIONAL AND
INTERNATIONAL
LEVELS

In 2022, the HHRI participated at the international level by engaging with international bodies on issues of sexual and reproductive health and the law in the countries where HHRI works. For example, in August 2022, the HHRI presented a report before the United Nations Committee on Economic, Social and Cultural Rights, focusing on sexual and reproductive rights and doctor-patient confidentiality in El Salvador.



ACADEMIC EVENTS
AND SCHOLARSHIP
ON ISSUES IN
REPRODUCTIVE
HEALTH AND THE
LAW

Throughout 2022, the team submitted amici curiae briefs to support the decision-making of courts on issues surrounding reproductive health in Bolivia, Colombia, and Honduras.



LOCAL PARTNERS
IN 11 COUNTRIES
ACROSS LATIN
AMERICA



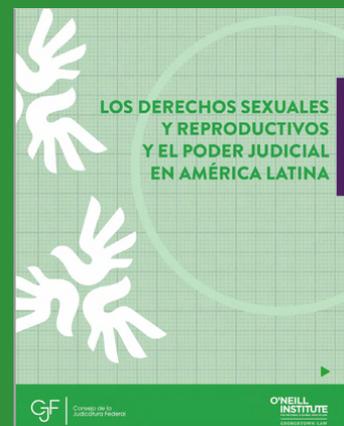
Dr. Tlaleng Mofokeng, Rebecca Reingold, Silvia Serrano Gúzman, and Allan Maleche speaking on a panel at "Abortion for All"



Panelists from across Latin America and the United States speaking at "Abortion for All"

The Health and Human Rights Initiative co-hosted the event, “Abortion for All: A Continental Discussion” with the Women’s Equality Center, IPAS, Fòs Feminista, and the Aspen Institute. This event brought together legal, human rights, and communications experts for three rich transnational panel discussions on advancing human rights and abortion access. The event featured the UN Special Rapporteur on the Right to Health, Dr. Tlaleng Mofokeng, associate directors of the HHRI, and experts from across Latin America, Africa, and the United States. The discussions focused on topics ranging from the need to decolonize global health and build strong movements and coalitions, to the need to decriminalize abortion. The event attracted representatives from domestic and international NGOs, reproductive justice activists, diplomats, members of international organizations, and scholars.

In Mexico, following a successful symposium in 2020, the HHRI continued to support and engage with the Consejo de la Judicatura Federal in Mexico on a range of topics related to sexual and reproductive rights and the law throughout 2022. This work led to the publication of the book, *Los Derechos Sexuales y Reproductivos y el Poder Judicial en América Latina*.



In Ecuador, in 2022, the HHRI engaged in a range of activities surrounding a bill introduced by the Ecuadorian Defensoría del Pueblo (ombudsman) to promote and protect the sexual and reproductive rights of women who have suffered sexual violence.

Co-Director Silvia Serrano Guzmán presented in a panel discussion on the human rights issues surrounding a presidential veto of the bill.

Co-Director Oscar Cabrera participated in a Congressional hearing in defence of the right to health of women in Ecuador. The hearing focused on a bill presented by the Defensoría del Pueblo (ombudsman) and provided for the right to an abortion in cases of sexual violence.



Gretzel Brozovich at CEDAW hearings with Dr. Leticia Bonifaz Alfonzo, CEDAW Committee Expert and Rapporteur for Bolivia, and CEDAW President Gladys Acosta

In Bolivia, members of the HHRI team participated in CEDAW hearings, providing arguments and data for the construction of concluding observations on the seventh periodic report of the Plurinational State of Bolivia. In accordance with the arguments presented by the HHRI, final recommendations successfully included explicit reference to reproductive health and comprehensive sex education, and its link to unwanted pregnancies.

In July 2022, in collaboration with Argentinian partner organization Mujeres x Mujeres, the HHRI published *Aborto legal en los tribunales. Las narrativas jurídicas en las demandas contra la ley de interrupción voluntaria del embarazo en la Argentina* (Legal Abortion in the Courts. The Legal Narratives in the Cases in Opposition to the Legal Abortion Law in Argentina).” The book will generate reflection around the main arguments used in the lawsuits filed to challenge the law that legalized abortion in 2021, as well as in the judicial decisions that have defined them. This publication seeks to question common legal narratives identifying their weaknesses, distortions, and inconsistencies in the framework of international human rights law.



The HHRI, in collaboration with the Office of the United Nations High Commissioner for Human Rights, Women’s Link Worldwide, and IPAS, hosted four full day workshops on strategic sexual and reproductive rights litigation in Central America. The workshops took place in four sessions during June and July 2022, and included 50 participants from across Central America that were selected from a pool of over 140 applicants. The program received very positive feedback from participants, who all reported that the knowledge they acquired during the course would be useful for the advocacy work they do with women and girls in their respective countries.

In Chile, in 2022, the HHRI supported the Constitutional Convention, through formal engagement with commissions and additional events to promote important academic and legal dialogue around human rights in the new constitution, including the possibility of a right to sexual and reproductive health in a new Chilean constitution. On August 8 and 11, the HHRI and local partner in Chile, Universidad Diego Portales, co-hosted a two day seminar series. This seminar series, entitled, “The Proposed New Constitution in light of the Right to Health and Economic Social Cultural and Environmental Rights,” featured distinguished academics from across the United States, Canada, and Latin America.

INTERNATIONAL SEMINAR
 “The Draft New Constitution in light of the Right to Health and ESCE rights.”
 AUGUST 8, 2022

Faculty of Law of the Universidad Diego Portales in Chile
 O’Neill Institute for National and Global Health Law at Georgetown University Law Center

This event will be hybrid and streamed through the social networks of the Universidad Diego Portales. There will be simultaneous interpretation between English and Spanish available.

On the whole, this international seminar aims to deepen a debate that will be fundamental in the plebiscite vote that Chile will face on September 4. The recognition and protection of the right to health and ESCR will be an essential issue in a future constitutional deliberation.

For this reason, this international seminar invites the most distinguished academics to offer the country a rigorous reflection with a comparative perspective on the virtues and weaknesses of the constitutional articles approved on the issue.

09:00 hrs **Inaugural Speeches**

Jaime Couso **Dean Faculty of Law UDP.**

Oscar Cabrera **Director Health and Human Rights Initiative O’Neill Institute for National and Global Health Law.**

09:20-10:50 hrs **Panel 1. The right to health in the new Constitution**

Oscar Cabrera **Director of the Health and Human Rights Initiative O’Neill Institute for National and Global Health Law**

Alicia Yamin **Professor of Law and Senior Fellow in Health and Global Rights at the Petrie-Flom Center for Health Law Policy, Biotechnology and Bioethics at Harvard Law School.**

Rodolfo Figueroa **Director of the Department of Public Law UDP.**

Francisca Crispi **President of the Santiago Regional Council of the Chilean Medical Association.**

11:00-12:30 hrs **Panel 2. Sexual and Reproductive Rights**

Rebecca Reingold **Associate Director of the Health and Human Rights Initiative of the O’Neill Institute for National and Global Health Law.**

Lidia Casas **Director of the Human Rights Center UDP.**

Joanna Erdman **Professor and MacBain Chair in Health Law and Policy at the Schulich School of Law.**

INTERNATIONAL SEMINAR
 “The Draft New Constitution in light of the Right to Health and ESCE rights.”
 AUGUST 11, 2022

Faculty of Law of the Universidad Diego Portales in Chile
 O’Neill Institute for National and Global Health Law at Georgetown University Law Center

This event will be hybrid and streamed through the social networks of the Universidad Diego Portales. There will be simultaneous interpretation between English and Spanish available.

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For this reason, this international seminar invites the most distinguished academics to offer the country a rigorous reflection with a comparative perspective on the virtues and weaknesses of the constitutional articles approved on the issue.

13:00-14:30 hrs **Panel 3. Economic, Social, Cultural and Environmental Rights**

Domingo Lovera **Co-director of the Public Law Program UDP.**

Valentina Castagnari **Fellow at the O’Neill Institute.**

Christian Courtis **Human Rights Officer with the Office of the UN High Commissioner for Human Rights.**

Liliana Ronconi **Researcher University of Buenos Aires / CONICET, Argentina.**

15:00-16:30 hrs **Panel 4. Equality and non-discrimination**

Silvia Serrano **Associate director of the Health and Human Rights Initiative at the O’Neill Institute and adjunct professor of law at Georgetown University.**

Janet Lord **Senior Fellow Harvard Law School Project on Disability.**

Victor Madrigal **Independent expert ONU on sexual orientation and gender identity.**

Verónica Undurraga **Law School Academic Universidad Adolfo Ibáñez, Chile.**

In collaboration with the Center for Public Health Law Research, Temple University Beasley School of Law, Ibis Reproductive Health, and If/When/How Lawyering for Reproductive Justice, the HHRI organized a virtual panel series on “The Law And Evidence On Self-Managed Abortion.” This panel series explored the interplay between empirical evidence on the safety and efficacy of self-managed abortion laws and policies and their applications, and brought together empirical researchers and legal experts to explore the state of the evidence, the state of the law, and relationships between the two in the context of self-managed medication abortion in the United States and around the world.



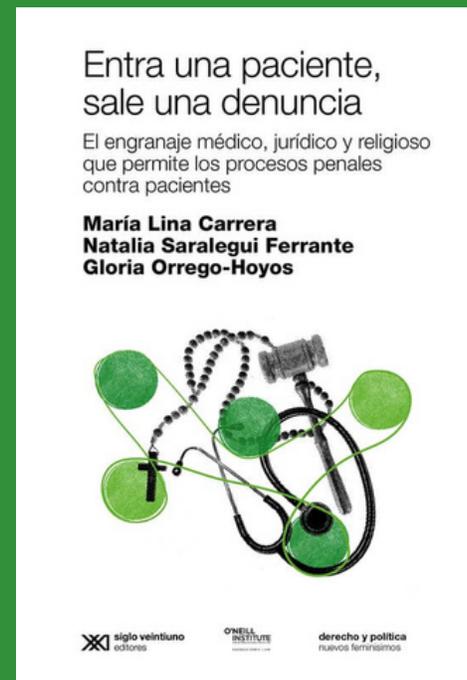
Rebecca Cook and Silvia Serrano Guzmán and Ivonne Garza at the event Defending Sexual and Reproductive Rights: Amici Curiae in Beatriz and Others vs. El Salvador.

In March 2023, the HHRI hosted a rich conversation on the amici curiae presented before the Inter-American Court in the high-profile case of Beatriz vs. El Salvador. The speakers, Rebecca Cook and Silvia Serrano Guzmán, explored the different arguments presented in their respective amicus briefs, with a special focus on gender stereotyping and the criminalization of sexual and reproductive services.

In June 2023, the HHRI supported and participated in the VII Conference of the Latin American Consortium Against Unsafe Abortion, "Persist in change: abortion is our right." 350 professionals, including attorneys, activists, journalists, and physicians participated in the conference held in Panama City. HHRI hosted an event for the legal network of the Consortium to honor and recognize the lifetime achievements of Rebecca Cook, renowned lawyer and academic.

The HHRI also held two thematic panels, one on medical professional secrecy and its challenges for reproductive health services in the region and another on the criminalization of abortion and legal strategies to overcome this reality.

In March 2023, the HHRI launched the book "Entra una paciente, sale una denuncia": The medical, legal and religious machinery that allows criminal proceedings against patients, written by María Lina Carrera, Natalia Saralegui Ferrante, and Gloria Orrego-Hoyos. The launch event took place in Buenos Aires and included academics and activists from across the region who highlighted the importance of this research.



VISITING AND DISTINGUISHED SCHOLARS

During 2022, the HHRI welcomed a number of visiting scholars for research stays at the institute to share their expertise and learn from the HHRI team.



Gloria Porras is a lawyer and distinguished visitor of the Health and Human Rights Initiative. Previously, Porras served as a judge and later as the president of the Constitutional Court and of the Institute of Constitutional Justice. She was also a consultant in the Office of the United Nations High Commissioner for Human Rights in Guatemala. Most recently, Porras was a fellow at the Woodrow Wilson Center in D.C., and in Puerto Rico at the Narcotics Affairs Section Project. Porras has received the Faces for Equality 2020 Award from the Canadian Embassy in Guatemala and the 2015 Global Jurist of the Year Award from the International Center for Human Rights of the University of Northwestern Chicago School of Law. The Network for Peace and Development of Guatemala has also recognized her as an exemplary official of the state of Guatemala in 2020.



Carolina Saito is a Ph.D. candidate in Economic Law at the University of São Paulo, with a visiting period at the Department of Political Science of Yale University and another at the O'Neill Institute. She holds a master's degree in Constitutional Law from the Pontifical Catholic University of São Paulo, where she also graduated in Law. Saito worked at a competition law boutique for eight years, was chief of staff to CADE's Tribunal, and a consultant for the United Nations Development Programme (UNDP) regarding cease and desist agreements at CADE. She is a researcher on regulation and competition law in food environments in Brazil.



Ana María Méndez is a Ph.D. candidate in Law at Universidad de los Andes in Colombia. She holds a law degree from the same University, a master's degree in Human Rights and Democratisation from the European Inter-University Centre for Human Rights and Democratisation (EIUC), and a specialization in Constitutional Law from Pontificia Universidad Javeriana in Colombia. In addition, she has professional experience in constitutional law and gender. Méndez was part of the legal team in the "Causa Justa" movement that drafted the constitutional petition that resulted in Sentencia C-055 of 2022, which decriminalized abortion until week 24 in Colombia.

IN MEMORIAM: BELÉN RÍOS

Belén began her career in human rights at the Center for Legal and Social Studies (CELS), where she first completed a professional practice and then worked in a free legal aid clinic in a disadvantaged neighborhood of the city of Buenos Aires, Argentina. That experience and her connections with other young lawyers interested in public interest legal work led her to co-found the Centro para una Justicia Igualitaria y Popular (CEJIP), a nonprofit organization working to ensure access to justice and to promote human rights in her home neighborhood.



Belén formally joined the O’Neill Institute’s community in 2012, when she received her LL.M. in Global Health Law from Georgetown Law. However, her collaboration with O’Neill began earlier, when she was at the Inter-American Heart Foundation Argentina (FIC-Argentina) in 2010. Together, O’Neill and FIC-Argentina developed joint projects focused on tobacco control and human rights, and pioneered the use of UN Treaty Monitoring Bodies reporting mechanisms to frame tobacco control as a human rights issue. Belén presented the first shadow report addressing the linkages between tobacco control, human rights, and women’s rights to the UN CEDAW Committee. In early 2020, Belén joined the HHRI team, where she contributed her expertise and vision to a number of projects focused on healthy food environments and sexual and reproductive health. Belén combined a passion for rigor with strategic thinking, always identifying creative and innovative ways to use the law to achieve health justice goals. There was no meeting in which her energy would go unnoticed. She described herself as “vehement” (vehemente) and unapologetic. In the short time that Belén supported the work of the O’Neill Institute, she became a crucial part of the team and her legacy continues to inspire the work of the HHRI. She is sorely missed. Today and for the years to come, the public health and human rights community will continue to witness the impact of Belén’s work in the field.

BELÉN RÍOS SCHOLAR

In memory of Belén Ríos, the O’Neill Institute for National and Global Health Law has created a full scholarship to support a student in their pursuit of an LL.M. in National and Global Health Law at Georgetown Law.



Allan Maleche was the 2022 Belén Ríos Health and Human Rights Scholar. Maleche is a dynamic leader, an advocate of the high court of Kenya, and a human rights defender with over fifteen years of experience in law, ethics, governance, policy, health and rights, including eight years managing rights-based programs that protect affected, marginalised, and vulnerable populations. He is currently serving as the executive director of Kenya Legal & Ethical Issues Network on HIV & AIDS (KELIN). He sits and co-chairs the UNAIDS Human Rights Reference group and is a member of the International Advisory Board for the Global Health Centre. Maleche previously served on the board of the Developing Country NGO Delegation to the Global Fund Board, where he also was a member of the Global Fund’s Audit and Finance Committee and chair of the Implementers Group of the Global Fund Board.

OPPORTUNITIES FOR STUDENTS

Health and Human Rights Practicum

With both a seminar and project-based component, the Health and Human Rights Practicum explored the potential of using international and regional human rights frameworks to improve health, well-being, and equity. By covering the fundamentals of the right to health and other related entitlements, the seminar component of the course provided students with the substantive expertise needed for this task. Through the project-based component, students were exposed to research projects that responded to current national and global challenges with respect to health. For instance, projects addressed the links between human rights and medical confidentiality, end-of-life dignity and care, and the institutionalization of persons with psychosocial disabilities. To execute their projects, students worked closely with external partners of the Health and Human Rights Initiative, including key civil-society organizations and public institutions.





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