B

CENTER FOR REPRODUCTIVE RIGHTS

BRIEFING PAPER

Governments Worldwide Put Emergency Contraception into Women's Hands

A GLOBAL REVIEW OF LAWS AND POLICIES

All countries should take steps to meet the family planning needs of their populations as soon as possible and should, in all cases by the year 2015, seek to provide universal access to a full range of safe and reliable family planning methods and to related reproductive health services which are not against the law. The aim should be to assist couples and individuals to achieve their reproductive goals and give them the full opportunity to exercise the right to have children by choice.

PROGRAMME OF ACTION OF THE INTERNATIONAL CONFERENCE ON POPULATION AND DEVELOPMENT, CAIRO, EGYPT, SEPTEMBER 5–13, 1994, PARA. 7.16

The United Nations system and donors should...support Governments in...[m]obilizing and providing sufficient resources to meet the growing demand for access to information, counselling, services and follow-up on the widest possible range of safe, effective, affordable and acceptable family planning and contraceptive methods, including new options and underutilized methods....

KEY ACTIONS FOR THE FURTHER IMPLEMENTATION OF THE PROGRAMME OF ACTION OF THE INTERNATIONAL CONFERENCE ON POPULATION AND DEVELOPMENT, NEW YORK, UNITED STATES, JUNE 30–JULY 2, 1999, PARA. 57

Between 1995 and 2000, women worldwide experienced over 300 million unwanted pregnancies.[1] During the same time period, over 700,000 of these women died of pregnancy-related causes, including over 400,000 who died from complications of unsafe abortion.[2] Many of these women could have avoided their unwanted pregnancies with use of emergency contraception (EC), a safe, effective means of preventing pregnancy following unprotected sex. While many governments are taking steps to put EC into women's hands, millions of women around the world who could benefit from EC have never heard of it. Among those who have, few know where they can get EC or how to use it.

The situation is made worse by anti-choice extremists who have worked to block women's access to EC. These strategic attacks reveal an agenda to undermine women's basic right to control their reproductive lives. Countries that limit the availability of EC needlessly jeopardize women's physical and mental health. This is particularly true in countries that fail to ensure access to safe and legal abortion, where many women who are denied EC are forced to turn to unsafe abortion procedures. Governments' failure to make EC an accessible contraceptive option violates their duty agreed to in the Programme of Action of the International Conference on Population and Development to ensure "the widest achievable range of safe

and effective family planning and contraceptive methods."[3] This briefing paper examines government initiatives worldwide aimed at making EC more accessible. These initiatives begin with the recognition that EC is a means of preventing pregnancy, not terminating pregnancy. Steps to improve access to EC include registering EC products, making EC available over the counter, and ensuring that EC is available to women at greatest risk of unwanted pregnancy, including rape survivors and adolescents. To meet their international commitments to reduce unwanted pregnancy, as well as to prevent pregnancy-related deaths and illnesses, governments worldwide should take these essential first steps—and others—to ensure access to EC for every woman.

I. Emergency Contraception Is Contraception

Efforts to make EC widely available depend on governments' recognition that EC is a contraceptive method and not a form of abortion. The medical community has taken this position and advised governments to do so as well. A number of governments have officially acknowledged that EC is a means of preventing pregnancy, a position that is implicit in the legal definition of abortion already accepted in many countries.

EC pills provide an elevated dose of the hormones in ordinary oral contraceptive pills and contain either a combination of estrogen and progestin, or progestin only.[12] EC pills are generally taken within 72 hours of unprotected intercourse, and the sooner they are taken, the more likely they are to prevent pregnancy.[13] An IUD, when inserted within seven days after unprotected intercourse, may also be used as an EC method.[14]

A. EMERGENCY CONTRACEPTION PREVENTS PREGNANCY

The purpose of contraception is to prevent pregnancy. According to accepted medical science, pregnancy begins with the implantation of the fertilized egg in the uterine wall.[4] The process of implantation commences at the end of the first week after fertilization.[5] Methods that delay or inhibit ovulation, block fertilization, or prevent implantation of the fertilized egg are means of preventing pregnancy.[6] Any mechanism that works prior to implantation is by definition a contraceptive.

The International Federation of Gynecology and Obstetrics has stated that "[EC] is not an abortificant because it has its effect prior to the earliest time of implantation."[7] Accepted views of the medical community are reflected in the World Health Organization's (WHO) definition of EC. WHO describes EC as "contraceptive methods that can be used by women in the first few days following unprotected intercourse to prevent an unwanted pregnancy."[8] Emergency contraceptives include EC pills and the intrauterine device (IUD).[9] They may prevent pregnancy by delaying or inhibiting ovulation, by stopping the fertilization of an egg, or by inhibiting the implantation of a fertilized egg in the uterus.[10] Once implantation has begun, however, EC pills are ineffective, since they cannot interfere with an existing pregnancy.[11]

Many countries have explicitly approved of EC as a contraceptive method by licensing existing drugs or approving new drugs for use as EC; by incorporating EC into government-regulated family planning services and protocols for treating sexual assault survivors; or by endorsing EC through publicity and information campaigns. The countries that have done so span the major geographical regions of the world.[15]

Many countries that permit EC—such as Argentina, Brazil, Colombia, El Salvador, Kenya, Pakistan, Thailand, and Venezuela—have highly restrictive abortion laws.[16] The acceptance of EC in these countries reveals an understanding that EC is contraception, not abortion. For example, the city of Rosario, Argentina, has incorporated EC into its Responsible Childbearing Program, which is administered by the Municipal Secretary of Health.[17] Likewise, at the national level, the Kenyan Ministry of Health permits all health-care workers at appropriate facilities with qualified staff to distribute EC.[18] In 2001, Colombia granted final approval to the marketing and distribution of EC.[19]

The use of EC has had a significant impact in preventing unintended pregnancies and abortions worldwide. In the United States, for instance, an estimated 51,000 abortions were averted through the use of EC in 2000; EC use accounted for roughly 43% of the overall decrease in U.S. abortions between 1994 and 2000.[20] Because of its potential to reduce maternal mortality and morbidity caused by unsafe abortion, EC has an especially important role in countries where access to safe abortion is restricted.

The difference between EC and other forms of contraception has been exaggerated. In fact, several studies have confirmed that EC generally acts as other hormonal contraceptives do, by inhibiting follicular development and the maturation or release of the ovum itself, thereby preventing or delaying ovulation.[21] Some researchers have proposed that this is the method's principal mechanism of action.[22] In any event, EC does not differ greatly from a number of other contraceptive methods, including oral contraceptives, IUDs, and injectables. All of these methods sometimes act postcoitally, that is, after intercourse has occurred. While oral contraceptives, IUDs, and injectables act primarily to suppress ovulation or prevent fertilization, they can also act to prevent implantation if fertilization has occurred.[23]

B. ABORTION LAWS THROUGHOUT THE WORLD EXCLUDE EMERGENCY CONTRACEPTION

Abortion laws around the world recognize the distinction between abortion and contraception. They may do so explicitly, for example, by narrowly defining methods of abortion to exclude those that act prior to implantation. More commonly, laws make this distinction implicitly. A number of laws do so by referring to procedures carried out at advanced stages of fetal gestational development. Other abortion laws refer to terminating a "pregnancy" or causing a "miscarriage," both terms that, according to medical and legal usage, assume that implantation has already occurred.

The abortion laws of several nations explicitly recognize that pregnancy does not commence until the fertilized egg implants in the uterine wall. Hence, any drug or medical device that acts prior to implantation is, by definition, a contraceptive. Examples of nations in this category include New Zealand, whose law states that "abortion means the medical or surgical procedure carried out for the purpose of procuring the destruction or death of an embryo or fetus *after implantation*."[24] Germany explicitly states that "procedures whose effect occurs *before the fertilized egg settles in the uterine wall* do not constitute abortion in the sense of this law."[25] Similarly, the law in Zimbabwe defines pregnancy as "an intra-uterine pregnancy where the foetus is alive."[26] The abortion law of the Netherlands provides that "termination of pregnancy shall *not* mean the application of a method *to prevent the nidation* [implantation] *of a fertilized ovum in the uterus*."[27] Liberia's abortion law is not applicable to "drugs or other substances for *avoiding pregnancy, whether by preventing implantation of a fertilized ovum or by any other method that operates before, at, or immediately after fertilization*."[28] In a federal regulation, the United States government also defines pregnancy as beginning with the confirmation of implantation.[29] At least one U.S. federal court has held that "[a]bortion, as it is commonly understood, does not include the IUD, the 'morning-after' pill [EC pills], or for example, birth control pills."[30]

Of the countries whose laws do not explicitly define abortion and pregnancy, a large number use descriptive phrases that refer to more advanced stages of gestation, excluding the period prior to implantation. The abortion laws of numerous countries refer to "termination of pregnancy" or "procurement of miscarriage," phrases that implicitly exclude procedures carried out prior to implantation of the fertilized egg in the uterine wall.[31] In the United Kingdom in April 2002, the High Court of England and Wales dismissed a judicial challenge brought by the Society for the Protection of the Unborn Child, which claimed that EC pills contravened the Offences against the Person Act of 1861.[32] The court ruled that EC cannot, as a matter of law, induce a miscarriage.[33] The justice ruling in that case noted that "[u]p until the attachment stage the embryo is not attached in any way to the woman herself."[34] He added, "current medical definitions given in medical dictionaries support the view that pregnancy begins once the blastocyst has implanted in the endometrium and, more particularly, that miscarriage is the termination of such a post-implantation pregnancy."[35] The court found that the EC pill "cannot cause a fertilized egg which is implanted to de-implant—that is, it

UNDER PRESSURE FROM RELIGIOUS FUNDAMENTALISTS, SOME GOVERNMENTS HAVE LABELED EC AS AN ABORTIFACIENT.

Despite the widespread acceptance of EC as contraception, these erroneous classifications continue to deprive countless women of one of the safest and most effective methods of preventing unwanted pregnancies. The Ugandan government has banned EC by declaring that the "morning after pill is clearly abortifacient."[36] In the Philippines, the Bureau of Food and Drugs, with the approval of the Department of Health, removed Postinor (levonorgestrel 750 mcg) from the drug registry. This action has unjustifiably denied all Philippine women access to Postinor on the mistaken belief that it "has abortifacient effect and contravenes existing provisions of law in the matter."[37]

cannot work after the process of implantation is complete."[38] The court further found that "[the EC pill] if it is to be effective,...has in any event to be taken at a time...when implantation will not have begun."[39] Similarly, in April 2001, the Judicial Section of France's highest administrative court dismissed complaints against the authorization of marketing for two EC pills containing levonorgestrel, Norlevo, and Tetragynon.[40] In both cases, the court held that the product was a hormonal contraceptive and not an abortifacient.[41]

IN AT LEAST TWO COUNTRIES, THE LEGALITY OF EC WAS CHALLENGED BUT LATER AFFIRMED.

The Peruvian Ministry of Health tried to deny access to EC by asking the Peruvian Medical Board to decide whether EC is contrary to the constitutionally protected right to life from the moment of conception.[42] The task was delegated to the Peruvian Society for Obstetrics and Gynecology, which supported the use of EC for up to 48 hours after unprotected intercourse.[43] Similarly, the Chilean Supreme Court originally banned the provision of the EC pill Postinal in August 2001, on the grounds that it was a form of abortion and thus contravened the constitutionally protected right to life.[44] The justices at that time accepted the Catholic bishops' belief that pregnancy is established upon fertilization.[45] Four months later, the Supreme Court reversed its earlier ban and authorized the sale of Postinor-2.[46] The Chilean Institute of Public Health and women's rights groups argued that denying women access to EC would leave them vulnerable to the harmful effects of unsafe abortion.[47]

II. Governments Are Taking Steps to Promote Women's Access to Emergency Contraception

Many countries have moved beyond merely recognizing that EC is a contraceptive method and have implemented measures to promote access to it. For instance, many governments have registered dedicated EC products, and a growing number of countries now permit EC to be sold without a doctor's prescription. In addition, some governments have taken steps to make EC available to women who are at greatest risk of unwanted pregnancy, such as rape survivors and adolescents. This subsection examines four measures—registering dedicated EC products, selling them without a prescription, ensuring access to rape survivors, and protecting adolescents' right to EC—and recommends that these and other steps be taken by governments worldwide to make EC available to the women who need it.

A. GOVERNMENTS SHOULD REGISTER DEDICATED EMERGENCY CONTRACEPTION PRODUCTS

One of the most important steps a government can take to improve access to EC is to register a dedicated EC product. Over 100 countries have done so to date.[48] Dedicated products are specially packaged and labeled for use as EC.[49] While ordinary contraceptive pills can serve as EC when taken at the appropriate time and dose, without a dedicated product, women and providers might question the legitimacy of EC as a method of preventing pregnancy.[50] Having a specific product or brand name also creates

avenues for social marketing,[51] and makes EC readily available for sale in pharmacies.

Furthermore, a dedicated product can ensure that women use the method as effectively as possible. The wide variety of oral contraceptive pill formulations on the market makes adapting them for use as EC a challenging task and increases the margin for user error.[52] Prior to the approval of a dedicated EC pill in Mexico, a survey showed that despite 74% of providers knowing about EC, fewer than 40% correctly understood the dosages for the regimen and just 7% had ever prescribed it.[53]

In the absence of a dedicated levonorgestrel-only EC pill, a woman desiring the equivalent effect would have to take two doses of 25 minipills containing levonorgestrel 12 hours apart.[54] In fact, until Postinor-2 was launched in Australia in July 2002, Australian women who sought to prevent pregnancy after unprotected intercourse and wanted to benefit from the minimal side effects of a levonorgestrel-only product had to resort to this inconvenient regimen of minipills.[55] Taking two doses of a dedicated EC pill 12 hours apart is easier than swallowing 25 minipills twice in 12 hours. Moreover, the EC pill Levonelle is now available in a single dose, which prevents women from missing a second dose after 12 hours.[56] Dedicated products promote legitimacy, accessibility, and awareness of EC, which translates into greater use, and may explain why EC use is highest in high-income countries with dedicated EC products.[57]

Countries in all major geographical regions of the world have registered dedicated products. These include, among many others, Argentina, Bangladesh, Brazil, Egypt, France, Germany, Jamaica, Kenya, New Zealand, Poland, Russia, and the United States.[58]

EC has been safely used on the global market for several decades.[59] In 1995, WHO added the combined estrogen-progestin (Yuzpe) regimen to the WHO *Model List of Essential Drugs*.[60] In 1997, WHO included the levonorgestrel-only EC regimen in this list.[61]

It is important to note, however, that in many countries the market prices of dedicated products are prohibitive for many women. In Bolivia, for example, where 34% of the population lives on less than USD 2 a day,[62] Imediat N—the only dedicated EC product available—is sold in pharmacies for the equivalent of USD 10.[63] While governments and the private sector need to take immediate action to make dedicated EC products affordable to women, health providers and non-governmental organizations (NGOs) should continue to raise women's awareness of how to use ordinary oral contraceptives as EC.

B. GOVERNMENTS SHOULD MAKE EMERGENCY CONTRACEPTION AVAILABLE WITHOUT A PRESCRIPTION

Denying women the ability to purchase EC over the counter,[64] without a doctor's pre-

scription, is problematic since EC is most effective in preventing pregnancy when taken within 72 hours of unprotected intercourse. Even within this three-day time frame, there is declining effectiveness with each passing day: Postinor-2, an EC pill containing levonorgestrel only, is 95% effective within the first 24 hours after intercourse, 85% effective within 48 hours, and 58% effective within 72 hours.[65] The 95% success rate within 24 hours strongly supports the case for making EC available over the counter. Many women have difficulty accessing their doctors even within the 72-hour time frame, especially in rural areas and over weekends and holidays. Making EC available without a prescription makes it more accessible to women and helps prevent unwanted pregnancies.

EXAMPLES OF COUNTRIES (BY REGION) WHERE EC IS AVAILABLE WITHOUT A PRESCRIPTION:

- **The Caribbean: Jamaica**
- **Latin America: Argentina**
- **Western Europe: Belgium, Denmark, Finland, France, Norway, Portugal, Sweden, Switzerland, United Kingdom**
- **Eastern Europe: Albania, Lithuania**
- **Africa: Benin, Cameroon, Côte d'Ivoire, Gabon, Guinea, Kenya, Madagascar, Mali, Mauritius, Morocco, Namibia, Republic of Congo, Senegal, South Africa, Togo, Tunisia**
- **Middle East: Israel**
- **Asia: China, Malaysia, Sri Lanka, Thailand, Vietnam**
- **Oceania: Australia, New Zealand**

WHO considers EC a safe, convenient and effective method of modern contraception.[66] Moreover, EC is safe for self-medication because it is not toxic to the woman, nor to an embryo if implantation has already occurred.[67] The method has a low risk of abuse or overdose, and any side effects from an overdose are well known and minor.[68] When one considers that over-the-counter EC may be used instead of home remedies for preventing pregnancy after unprotected intercourse,[69] the safety of self-administered EC is even more apparent. Using the method simply requires a woman to assess the time elapsed since unprotected sexual intercourse. Any interaction between EC and other drugs would be nonfatal and unlikely to seriously affect EC's efficacy. The conditions that EC treats—contraceptive failure or non-use of contraception during intercourse—are ones that a woman can readily diagnose, and EC has no contra-indications.[70]

Women may legally obtain EC through a pharmacy without a doctor's prescription in more than 30 countries (*see box above right*).[71]

In Canada, EC is currently available without a prescription in three provinces (British Columbia, Quebec, and Saskatchewan),[72] and Health Canada has recommended amending the Food and Drug Regulations to extend this policy nationwide.[73]

Making EC available without a prescription has proved to be a successful strategy for preventing unwanted pregnancy. In France, over one million women have used EC on a nonprescription basis since June 1999,[74] and in New Zealand, a shift to over-the-

counter status led to a 15% increase in pharmacy sales of EC pills.[75] Studies of self-administration in several countries underscore its effectiveness. In a telephone survey of Venezuelan EC users, almost all respondents found the instructions to be clear and took the drug correctly.[76] In studies assessing the effects of over-the-counter access in France, Norway, Portugal, and Sweden, many women reported their appreciation of the privacy, and the cost and time savings of not having to visit a physician.[77] Another study in Ghana showed that the regimen was self-administered correctly, with no subsequent increase in the incidence of unprotected intercourse.[78]

THE UNITED STATES HAS DENIED WOMEN ACCESS TO EC WITHOUT A DOCTOR'S PRESCRIPTION.

A drug manufacturer applied to the Food and Drug Administration (FDA) to make Plan B, an EC pill, available without a prescription.[82] While an FDA advisory panel recommended approval of the application, it has so far been denied, and FDA officials have subjected the product to an unprecedented level of scrutiny.[83] The decision not to approve Plan B for nonprescription availability was made despite endorsements of over-the-counter status from major medical organizations, including the American Medical Association.[84] In the meantime, six states—Alaska, California, Hawaii, Maine, New Mexico, and Washington—permit pharmacists to dispense EC without requiring a physician's prescription.[85] Similar bills have been passed by the New Hampshire Senate, the New York State Assembly, and the Illinois House Committee, but whether these bills will become state law remains uncertain.[86]

Studies of EC advance provision demonstrate that for most women, having the method within easy reach increases their likelihood of using it without decreasing their regular contraceptive use. For example, a recent U.S. study found that young women who were given an advance supply of EC were more likely to have used the method, and to have done so sooner after unprotected sex, than were women who were not given an advance supply; moreover, women who had EC pills on hand did not have higher levels of unprotected sex or lower levels of regular contraceptive use than those without advance supplies.[79] Similarly, in a study of 1,083 women in Edinburgh, Scotland, 89% of women who received EC in advance reported that they had not changed their regular contraception regimen, and these women were no more likely to repeat EC use than were women who were not given advance supplies.[80]

Efforts to improve the accessibility of EC cannot end with making the method available over the counter. To get the full benefits of EC, women need access to information that makes them aware of the availability of EC and instructs them in how to use it properly. EC hotlines,[81] properly designed package inserts, and pharmacists who are trained to answer questions about EC can all provide valuable information to customers.

C. GOVERNMENTS SHOULD MAKE EMERGENCY CONTRACEPTION PROVISION A STANDARD COMPONENT OF CARE FOR RAPE SURVIVORS

EC is a vital medical treatment option that allows sexual assault survivors to prevent

unwanted pregnancy and avoid unsafe abortion. A number of countries have taken action—through legislation and regulatory measures—to enable rape survivors to access EC without delay in public health-care settings. These measures should be strengthened and replicated in countries worldwide; providers have a clear duty to ensure rape survivors timely access to EC.

Rape is a common occurrence in many countries, affecting both unmarried and married women. In the United States, roughly 300,000 women are raped each year.[87] A study in Peru revealed that half of women in the capital city of Lima, and nearly two-thirds of women in the department of Cusco, have experienced at least one instance of physical or sexual violence by an intimate partner.[88] Furthermore, 14–36% of married women in several districts of Uttar Pradesh, India, reported having been sexually assaulted by their husbands.[89]

Sexual assault often leads to unwanted pregnancies. Of the 300,000 women who are raped in the United States each year, an estimated 25,000–32,000 become pregnant as a result, and about half of these women undergo an abortion.[90] In Mexico, 7–26% of sexual assault survivors become pregnant by their attacker; moreover, in Thailand and Korea, rape crisis centers report that 15–18% of their clients become pregnant as a result of rape.[91] Among young adolescents, the percentage of pregnancies attributed to rape and incest is very high: Ninety percent of patients aged 12–16 at a maternity hospital in Lima, Peru, reported having been raped, while 95% of pregnancies among girls younger than 15 at a Costa Rican shelter were caused by incest.[92]

By preventing unwanted pregnancy following sexual assault, EC helps protect women from the dangers of unsafe abortions. Approximately 72% of women in Mexico City who report a rape do so within three days of the attack; a high percentage of rape-related pregnancies in this major city could thus be prevented if EC were provided at the time the crime is reported.[93] Each pregnancy averted through the use of EC means one fewer potentially unsafe abortion. Women who have already suffered the trauma of sexual assault should not have to undergo the additional trauma of an unsafe abortion.

A number of governments and hospitals have recently taken steps to promote rape survivors' access to EC, laying the groundwork for recognition of EC as a critical component of care. Several Latin American countries have taken a leading role in guaranteeing EC in cases of rape. In Mendoza, Argentina, the police provide EC as a standard practice in handling rape cases.[94] All public hospitals in Buenos Aires must now follow a protocol entitled Action Guidelines for Rape Victims, which includes the use of EC.[95] In 1999, the Brazilian Ministry of Health issued national guidelines on providing EC to victims of sexual violence.[96] In April 2004, Chile's Ministry of Health issued Resolution No. 527, which requires that victims of sexual assault receive EC upon request.[97]

The Peruvian Ministry of Women and Social Development has started training Emergency Women's Center personnel in developing a procedure for counseling sexual assault survivors about EC.[98] While these individuals are not authorized to distribute EC, the training can encourage them to recommend EC to clients or inform clients about the method. Furthermore, in Ecuador, following an intervention consisting of training in EC and focus group discussions, 95% of doctors, nurses, and nurse-midwives recognized EC provision as valid, while only 36% felt that way prior to the intervention.[99]

In addition, Mexico has made significant inroads in promoting sexual assault survivors' access to EC. The Mexican Family Planning Regulations of January 2004 authorize the distribution of EC to women who have been subjected to involuntary sex without contraceptive protection.[100] Five years before, in 1999, the Mexico City Assembly's Health and Social Welfare Commission, together with a group of NGOs, disseminated 113,000 copies of a brochure on EC and legal abortion for rape victims, and also broadcast radio ads on the topic.[101]

Efforts to familiarize sexual assault survivors with EC to prevent pregnancy have also been made in Asia and Africa. For example, the Sri Lankan Family Health Bureau published a *Handbook on Contraceptive Technology*, which recommends the use of EC following rape.[102] In a number of African countries, similar activities have been led in large part by NGOs. In Zimbabwe, the Musasa Project, an NGO created to assist survivors of sexual assault and domestic abuse, compiled a manual that refers counselors to information about women's right to EC.[103] The Rape Crisis Center in Cape Town, South Africa, another NGO addressing the needs of survivors of sexual violence, maintains a Web site which recommends that rape victims who fear a pregnancy ask the district surgeon to provide them with EC.[104]

The United Nations High Commissioner for Refugees (UNHCR) Health and Community Section emphasized the importance of access to EC in its publication entitled *Clinical Management of Survivors of Rape: A Guide to the Development of Protocols for Use in Refugee and Internally Displaced Person Situations*.[105] UNHCR produced the guide in collaboration with WHO and the Interagency Working Group on Reproductive Health in Refugee Situations.[106] The guide includes an annex containing protocols for EC use.[107] Similarly, *Reproductive Health in Refugee Situations: An Inter-agency Field Manual* and UNHCR's *Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response* include EC pills for care following rape.[108] The United Nations Population Fund provided EC in the emergency reproductive health kits given to Kosovo refugees in Albania and to women in camps in Thailand. Similarly, the Sexual and Gender-Based Violence Program for Burundian refugees in Tanzanian camps also offered EC to rape victims.[109]

In the United States, five states have laws requiring hospital emergency rooms to provide information about EC to sexual assault survivors,[110] and a sixth state has unenforceable guidelines recommending that this information be provided.[111] In addition, five states have laws requiring emergency rooms to dispense EC to sexual assault victims upon request,[112] while two additional states have unenforceable guidelines recommending dispensation of EC upon request.[113] A Congressional bill (HR 2527) has been introduced that would require emergency rooms nationwide to provide EC to sexual assault survivors.[114] Prominent medical groups, including the American Medical Association and the American College of Obstetricians and Gynecologists, as well as the U.S. Centers for Disease Control and Prevention, endorse the provision of EC to rape survivors as a standard of medical care.[115]

Strong and clear legislation ensuring access to EC for rape survivors is often necessary in the face of individual biases of governmental officials, hospital workers, or pharmacists. A case in point is that of a 13-year-old girl named Paulina, who was the victim of rape in Mexico.[116] Not only did the hospital neglect to offer Paulina access to EC despite her seeking care within 72 hours after the rape, but justice officials and health authorities prevented her from legally terminating the pregnancy—a pregnancy that most likely could have been prevented had Paulina had access to EC.[117] Paulina's case is pending at the Inter-American Commission on Human Rights; the NGOs that brought the case are seeking, among other things, governmental regulations to establish the provision of EC to all rape survivors as a standard of care.[118]

Legal provisions permitting health-care providers to "conscientiously object" to providing EC to rape victims invite similar abuses of discretion. Accepted standards of medical ethics and many national laws require medical practitioners who object to providing a service to refer patients to other appropriate professionals who are willing to offer the service.[119] This principle was incorporated into Chile's recently adopted Norms and Technical Guide on Emergency Care Service for Victims of Sexual Violence. Under that instrument, should an attending physician consider, for personal or religious reasons, that he or she cannot provide EC to a survivor of rape, he or she must refer the case to a practitioner capable of handling the patient's request.[120]

D. GOVERNMENTS SHOULD REMOVE BARRIERS TO ADOLESCENTS' ACCESS TO EMERGENCY CONTRACEPTION

Contraceptive options are key to realizing adolescents' right to make decisions regarding reproduction. Unfortunately, adolescents face many obstacles in obtaining information and access to contraceptives. Factors that contribute to adolescents' restricted access to EC include their lack of awareness of the availability of EC pills; barriers to their use of family planning clinics, including embarrassment, lack of familiarity with the clinics, and inconvenient clinic hours; fear of a pelvic examination; and anxiousness about the judgmental attitudes of providers.[121]

To overcome these obstacles, the International Consortium on Emergency Contraception recommends creating youth-friendly clinics that protect privacy and confidentiality; establishing accessible facilities with flexible hours; and offering affordable services.[122] Making EC available over the counter may also help alleviate the embarrassment that adolescents face in asking their physician to prescribe EC.

Adolescents with little experience with contraceptive use have a high risk of unintended pregnancy;[123] worldwide, 15 to 17 million adolescent girls become pregnant each year.[124] Early childbearing is associated with high levels of maternal mortality and morbidity for many reasons, including adolescents' physiological immaturity.[125] Compared with women in their twenties, adolescent girls are twice as likely to die in childbirth, and girls under 15 are five times as likely to die in childbirth.[126] Moreover, adolescents with unwanted pregnancies may lack the emotional and psychological preparation needed to care for a child. Making EC more widely available helps reduce unwanted and potentially unsafe pregnancies. For instance, in a U.S. study of 160 women aged 14–20 who had previously given birth, subjects who were given an advance supply of EC had substantially lower rates of pregnancy six months later compared with those who were only informed about the method.[127]

Moreover, at the global level, of the 15 to 17 million adolescents worldwide who become pregnant each year, 4.4 million undergo abortion, and 40% of these abortions are carried out in unsafe conditions.[128] An estimated 13% of pregnancy-related deaths among women of all ages, or one in eight, result from unsafe abortion.[129] Widespread availability of EC could help reduce the number of unsafe abortions that occur every year.

France and England have recently adopted high-profile measures to increase adolescents' access to EC. In January 2002, the French government issued a decree allowing girls under 18 to obtain EC from a pharmacy free of charge and without a prescription or parental approval.[130] In cases where a doctor or family planning center is not immediately accessible, French law already authorized nurses in junior and senior high schools to distribute EC in cases of distress or urgency.[131] During the year after this law went into effect, from 2001 to 2002, nearly 5,830 French students obtained EC pills from their school nurses.[132] Offering EC in schools can reduce the number of unwanted pregnancies and creates an opportunity for adolescents to consult with health-care professionals. The law directs nurses who dispense EC to students to arrange for a medical follow-up appointment for those students.[133] The General Secretary of the Family Planning Association in France attributes the recent 20–25% decline in the number of adolescent abortion clients to the law authorizing school nurses to dispense EC.[134]

In the United Kingdom, Parliament has approved a measure allowing the sale of EC without a prescription to all women over 16,[135] and two supermarkets in Somerset

County distribute EC free of charge to teenage girls as part of a publicly funded pilot program launched by the local health authority.[136] In South London, Chestnut Grove School is making EC available to its pupils, even those under 16.[137]

Lastly, in Latin America, on February 18, 2004, Colombia's Ministry of Social Protection issued Circular No. 18, which outlines goals, activities, and standards for the delivery of primary health-care services. The circular specifically addresses adolescents' access to contraception and requires the provision of EC to uninsured adolescents living in communities that are displaced, economically disadvantaged, and at risk.

Conclusions

EC is widely accepted as a method of contraception, and many governments have taken steps to increase women's access to it. Thanks to the efforts of lawmakers, hospitals, and NGOs, more and more women can prevent unwanted pregnancies with the use of EC. Governments worldwide should continue to explicitly recognize EC as a safe, effective method of *preventing* pregnancy and expand their efforts to increase access. These efforts should include, at a minimum, the following:

- registering at least one dedicated EC product;
- permitting the sale of EC without a doctor's prescription;
- developing legislation and regulations to ensure that women who have experienced rape can access EC in a timely manner; and
- enacting laws and policies that recognize adolescents' right to use EC and that minimize the obstacles they face in accessing EC.

EC serves a unique role as a postcoital method that prevents unwanted pregnancy, and that can help reduce the number of unsafe abortions performed every year. Because EC advances women's health and control of their reproductive lives, it is a vital element of women's health care and family planning.

ENDNOTES

1 GLOBAL HEALTH COUNCIL, PROMISES TO KEEP: THE TOLL OF UNINTENDED PREGNANCIES ON WOMEN'S LIVES IN THE DEVELOPING WORLD 7 (2002), *available at* http://www.globalhealth.org/assets/publications/PromisesToKeep.pdf.

2 *Id.* at 7-8.

3 *Key Actions for the Further Implementation of the Programme of Action of the International Conference on Population and Development*, U.N. GAOR, 21st Special Sess., New York, United States, June 30 - July 2, 1999, para. 53, U.N. Doc. A/S-21/5/Add.1 (1999).

4 WILLIAMS OBSTETRICS 664 (19th ed. 1993).

5 *Id.* at 116, 165.

6 AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS (ACOG), STATEMENT ON CONTRACEPTIVE METHODS (1998).

7 International Federation of Gynecology and Obstetrics (FIGO), *Ethical Aspects Of Induced Abortion For Non-Medical Reasons* ¶ 11 (1998), *available at* http://www.figo.org/default.asp?id=6057.

8 WORLD HEALTH ORGANIZATION (WHO), EMERGENCY CONTRACEPTION, A GUIDE FOR SERVICE DELIVERY 7, WHO/FRH/FPP/98.19 (1998), *available at* http://whqlibdoc.who.int/hq/1998/WHO_FRH_FPP_98.19.pdf (last visited May 12, 2004). WHO also states that EC pills "do not interrupt pregnancy and thus are no form of abortion." *Id.* at 20.

9 James Trussell et al., *Emergency Contraception: A Cost-Effective Approach to Preventing Unintended Pregnancy*, 1 WOMEN'S HEALTH IN PRIMARY CARE 55–69 (1998).

10 International Consortium for Emergency Contraception (ICEC), *Policy Statement on Mechanism of Action, How do Emergency Contraceptive Pills Work to Prevent Pregnancy?* (2003), *at* http://www.cecinfo.org/files/ICEC%20-%20Mechanism%20of%20Action%20Policy%20Statement%202003.pdf.

11 *Id.*

12 PATH, RESOURCES FOR EMERGENCY CONTRACEPTION, A TOOLKIT, MODULE A: INFORMATION FOR POLICY MAKERS A-55 (2004), *available at* http://www.cecinfo.org/html/EC%20Toolkit.htm.

13 International Consortium for Emergency Contraception (ICEC), *What is Emergency Contraception?*, at http://www.cecinfo.org/html/fea-what-is-ec.htm (last visited Sept. 23, 2004); EC pills may be taken up to five days following unprotected intercourse, but the sooner they are taken, the more likely they are to prevent pregnancy. PATH, *supra* note 12, at A-55.

14 PATH, *supra* note 12, at A-55.

15 *See* International Consortium for Emergency Contraception, *ECP Status and Activity by Country, at* http://www.cecinfo.org/files/ecstatusavailability.pdf (last visited Sept. 22, 2004); Planned Parenthood Federation of America, *Fact Sheet: A Short History of Emergency Contraception: Emergency Contraceptive Pills (ECPs) around The World, at* http://www.plannedparenthood.org/library/BIRTHCONTROL/EmergContraHistory.htm (last visited Sept. 22, 2004); NOT-2-LATE.com (The Emergency Contraception Website), *Emergency Contraception Around the World, at* http://ec.princeton.edu/worldwide/ (last visited Sept. 22, 2004); Population Council, Reproductive Health and Family Planning, *Emergency Contraception, at* http://www.popcouncil.org/rhfp/ec.html (last visited Sept. 22, 2004); CENTER FOR REPRODUCTIVE RIGHTS & ESTUDIO PARA LA DEFENSA DE LOS DERECHOS DE LA MUJER (DEMUS), WOMEN OF THE WORLD: LAWS AND POLICIES AFFECTING THEIR REPRODUCTIVE LIVES – LATIN AMERICA AND THE CARIBBEAN 171 (1997); CENTER FOR REPRODUCTIVE RIGHTS & DEMUS, MUJERES DEL MUNDO: LEYES Y POLÍTICAS QUE AFECTAN SUS VIDAS REPRODUCTIVAS – AMÉRICA LATINA Y EL CARIBE, SUPLEMENTO 2000, at 49 (2001); PROFAMILIA, ANTICONCEPCIÓN DE EMERGENCIA, UN DERECHO DE LA MUJER 74 (2001); Pan-American Health Organization (PAHO), Program on Women, Health and Development, *Fact Sheet: Emergency Contraception in the Americas* (March 2001).

16 Anika Rahman et al., *A Global Review of Laws on Induced Abortion*, 1985–1997, 24 INT'L FAM. PLAN. PERSP. 56, 58 (1998).

17 Latin American Consortium for Emergency Contraception, (LACEC) Newsletter, Vol. 1, No. 1, Oct. 2002, at 6.

18 MINISTRY OF HEALTH OF KENYA, REPRODUCTIVE HEALTH, FAMILY PLANNING POLICY GUIDELINES AND STANDARDS FOR SERVICE PROVIDERS 26 (rev. June 1997).

19 PROFAMILIA, *supra* note 15, at 74.

20 Rachel K. Jones et al., Alan Guttmacher Institute (AGI), *Contraceptive Use Among U.S. Women Having Abortions in 2000–2001*, 34 PERSP. ON SEXUAL AND REPROD. HEALTH 294, 294 & 300 (Nov./Dec. 2002), *available at* http://www.agi-usa.org/pubs/journals/3429402.pdf.

21 *See* ICEC, *Policy Statement on Mechanism of Action*, *supra* note 10.

22 *See* International Planned Parenthood Foundation, *Emergency Contraception Works Primarily by Inhibiting Ovulation* (July 11, 2002), *available at* http://ippfnet.ippf.org/pub/IPPF_News/News_Details_s.asp?ID=2127.

23 ACOG, *supra* note 5.

24 New Zealand, Contraception, Sterilization and Abortion Act 1977, No. 112, art. 2 (emphasis added).

25 Germany, Penal Code, art. 218 (C.H. Beck, 1997) (unofficial translation, emphasis added).

26 Zimbabwe, Termination of Pregnancy Act, ch. 15:10, art. 2 (1977).

27 Netherlands, Law of May 1, 1981 (Stb. 257), *translated in* 32 INT'L DIG. HEALTH LEGIS. 442 (1981) (emphasis added).

28 Liberia, Amendment to Criminal Code, Title 26, ch.16, July 19, 1976, art. 6, *reprinted in* UNITED NATIONS FUND FOR POPULATION ACTIVITIES, ANN. REV. POP. L. 16 (1977) (emphasis added).

29 United States, Protection of Human Subjects, Definitions, 45 CFR § 46.203.

30 United States, *Margaret S. v. Edwards*, 488 F. Supp.181, 191 (E.D. La. 1980).

31 CHRISTOPHER TIETZE & STANLEY K. HENSHAW, INDUCED ABORTION, A WORLD REVIEW 1986, at 5 (1986).

32 United Kingdom, *Smeaton v. Secretary of State for Health* [2002] EWHC 610 (Admin) (18th April, 2002), *available at* http://www.bailii.org/ew/cases/EWHC/Admin/2002/610.html.

33 *Id.* ¶ 18.

34 *Id.* ¶ 126(vii).

35 *Id.* ¶ 148.

36 Letter from P.K. Asiimwe, Ministry of Justice and Constitutional Affairs, Uganda, to Director General of Health Services, Uganda, Re: Seeking Guidance on the Legal Definition of Abortion in Uganda, May 7, 2002, no. ADM/7/161/01 (advising that Viekela, an EC product, is an abortifacient and thus falls within Uganda's criminal ban on abortion); *see also* THE EMERGENCY CONTRACEPTION NEWSL. (Am. Soc'y for Emergency Contraception, Princeton, N.J. & Int'l Consortium for Emergency Contraception, Durham, N.C.), Spring 2002, at 5, *available at* http://www.cecinfo.org/files/ecupdate-02-7-1.rtf.

37 Philippines, Bureau of Food and Drugs, Bureau Circular No. 18 s. 2001 issued Dec. 7, 2001; EMERGENCY CONTRACEPTION NEWSL. (Am. Soc'y for Emergency Contraception, Princeton, N.J. & Int'l Consortium for Emergency Contraception, Durham, N.C.), Winter 2001/2002, at 8, *available at* http://cecinfo.org/files/ecupdate-02-6-2.rtf.

38 *Smeaton v. Secretary of State for Health*, *supra* note 32, ¶ 13(i).

39 *Id.* ¶ 13(ii).

40 France, *Conseil d'Etat*, April 25, 2001, N° 216521 *at* http://www.legifrance.gouv.fr/WAspad/Visu?cid=119822&indice=1&table=JADE&ligneDeb=1.

41 *Id.*; *Smeaton v. Secretary of State for Health*, *supra* note 32, ¶ 286.

42 LACEC, *supra* note 17, at 8.

43 *Id.* The Ministry of Health was displeased with this result, and put pressure on the Peruvian Medical Board to re-delegate the decision to its Board of Ethics, which has not yet issued a decision. *See* ANNA-BRITT COE, CENTER FOR HEALTH AND GENDER EQUITY, INFORMING CHOICES: EXPANDING ACCESS TO EMERGENCY CONTRACEPTION IN PERU 3 (2002), *available at* http://www.genderhealth.org/pubs/CoeECPeruSept2002.pdf.

44 Deborah Meacham & Lezak Shallat, *Chileans to Bishops: the Choice is Not Yours to Make*, PANOS FEATURES (Panos London), Jan. 4, 2002 at http://www.panos.org.uk/newsfeatures/featuredetails.asp.

45 *Id.*

46 *Id.*

47 *Id.*

48 ICEC, *Dedicated Products and their Availability*, *at* http://www.cecinfo.org/html/res-product-issues.htm (last visited Sept. 23, 2004); ICEC, *ECPs Status and Activity by Country*, *supra* note 15; NOT-2-LATE.com, *supra* note 15; International Planned Parenthood Federation, *Directory of Hormonal Contraceptives*, *available at* http://contraceptive.ippf.org/(0jzjzwj2kyllxp5541lljpuj)/introduction.aspx (last visited Sept. 23, 2004).

49 ELISA WELLS & MICHELE BURNS, CONSORTIUM FOR EMERGENCY CONTRACEPTION (ICEC), EXPANDING GLOBAL ACCESS TO EMERGENCY CONTRACEPTION: A COLLABORATIVE APPROACH

TO MEETING WOMEN'S NEEDS 4 (2000), *at* http://www.cecinfo.org/files/Expaning-Global-Access-to%20EC.rtf.

50 *Id.*

51 *Id.*

52 *See id.*

53 *Id.* at 16.

54 *See* WHO, *supra* note 8, at 20.

55 *See* Adele Horin, *There's Got To Be A Morning After*, SYDNEY MORNING HERALD, June 28, 2003, *available at* http://www.smh.com.au/articles/2003/06/27/1056683908357.html.

56 *New single dose Levonelle regimen*, THE PHARMACEUTICAL J., Nov. 15, 2003, *available at* http://www.pharmj.com/Editorial/20031115/news/levonelle.html.

57 ICEC, EXPANDING GLOBAL ACCESS TO EMERGENCY CONTRACEPTION, *supra* note 49, at 51.

58 ICEC, *Dedicated Products and their Availability*, *supra* note 48; ICEC, *ECPs Status and Activity by Country*, *supra* note 15; NOT-2-LATE.com, *supra* note 15; International Planned Parenthood Federation, *Directory of Hormonal Contraceptives*, *supra* note 48.

59 *Certain Combined Oral Contraceptives for Use as Postcoital Emergency Contraception*, 62 Fed. Reg. 8609, 8610 (1997).

60 ICEC, EXPANDING GLOBAL ACCESS TO EMERGENCY CONTRACEPTION, *supra* note 49, at 6.

61 *Id.*

62 United Nations Development Program, *Human Development Report 2003: Bolivia, Indicators, available at* http://hdr.undp.org/statistics/data/cty/cty_f_BOL.html.

63 CONSORCIO LATINOAMERICANO DE ANTICONCEPTION DE EMERGENCIA, LISTA DE PRODUCTOS DEDICADOS DE AE Y SUS PRECIOS POR PAISES, July 2004.

64 For purposes of this section, "over the counter" refers to medication being available from a pharmacy without a prescription. Strictly speaking, a distinction could be drawn between "over-the-counter" availability on drugstore shelves and "behind-the-counter" availability, which is also nonprescription but requires a customer to ask the pharmacist for the medication. Here we define "over the counter" broadly to include any medication available from a pharmacy without a doctor's prescription, even when sold behind the pharmacist's counter.

65 FAMILY HEALTH INTERNATIONAL, CONTRACEPTIVE TECHNOLOGY & REPRODUCTIVE HEALTH SERIES, SELF-STUDY, CONTENTS, SEC. 1, TIMING (1998), *at* http://www.fhi.org/training/en/modules/ECP/s1pg16.htm; *The not so bitter pill makes debut*, MANLY DAILY (Australia), Feb. 10, 2004. *See also NEJM 'Sounding Board' Article Argues for FDA Approval of OTC Status for Emergency Contraception*, KAISER DAILY REPRODUCTIVE HEALTH REPORT, Sept. 12, 2002, *at* http://www.kaisernetwork.org/daily_reports/print_report.cfm?DR_ID=13411&dr_cat=2.

66 WHO, *supra* note 8, at 7.

67 Citizen's Petition, Food and Drug Administration, Department of Health and Human Services, Petition to make EC available OTC (Feb. 14, 2001) at 3. (The petition was filed by the American Public Health Association, the American Medical Women's Association, the Association of Reproductive Health Professionals, the National Asian Women's Health Organizations, the National Black Women's Health Project, the National Family Planning and Reproductive Health Association, the Planned Parenthood Federation of America, the Reproductive Health Technologies Project, and 58 other organizations, by their counsel, the Center for Reproductive Rights.)

68 *Id.*

69 *See, e.g.*, Marie-Noelle Guichi, *"Day After" Birth Control Pill Hits Drugstores*, INTER PRESS SERVICE (IPS), Jan. 8, 2002, *available at* http://www.afrol.com/News2002/cam001_birth_control.htm (describing a 1999 study in Cameroon of a sample of 485 university students, which revealed that nearly 9% of women self-administered a high dose of nivaquine after intercourse, while 15% swallowed or inserted into the vagina homemade concoctions after intercourse that risk causing infection, sterility, or death. The Cameroonian Ministry of Health authorized sales of the EC pill Norlevo in response to these widespread practices).

70 Citizen's Petition, *supra* note 67 at 3.

71 Heather Boonstra, *Emergency Contraception: Steps Being Taken to Improve Access*, 5 GUTTMACHER REPORT 10, 11 (2002), *available at* http://www.agi-usa.org/pubs/journals/gr050510.pdf; *Non-Prescription Emergency Contraception to Become Available in New Zealand*, KAISER DAILY

REPRODUCTIVE HEALTH REPORT, May 24, 2002, *at* http://www.kaisernetwork.org/daily_reports/rep_index.cfm?hint=2&DR_ID=11355; *Belgium to Allow Over-the-Counter Sale of Emergency Contraception*, KAISER DAILY REPRODUCTIVE HEALTH REPORT, June 6, 2001, *at* http://www.kaisernetwork.org/daily_reports/rep_index.cfm?hint=2&DR_ID=5008; E. Aubeny, French Association for Contraception, Emergency Contraception Over The Counter, Powerpoint presentation at 7th Congress of the European Society of Contraception (Apr. 10–13, 2002), *available at* http://www.contraception-esc.com/powerpoint/G1.Genes2.ppt; *Emergency Contraception and the "Back Up Your Birth Control" Campaign*, 2 MAKING THE CONNECTION– NEWS AND VIEWS ON SEXUALITY: EDUCATION, HEALTH AND RIGHTS (SEICUS), Fall/Winter 2002, *available at* http://www.siecus.org/inter/connection/conn0023.html; Roberta Mancuso, *Morning-after pill no longer prescription only*, TOWNSVILLE BULLETIN/TOWNSVILLE SUN (Australia), Jan. 1, 2004, at 5; *U.S. women playing global catch-up on morning-after pill*, DEUTSCHE PRESSE-AGENTUR, May 20, 2003.

72 Centre for Research in Women's Health, *Sexual Choices & Reproductive Health, available at* http://www.crwh.org/sexuality.php (last visited Sept. 23, 2004).

73 Health Canada Online, *Information: Morning After Pill* (May 2004), *available at* http://www.hc-sc.gc.ca/english/media/releases/2004/2004_27bk1.htm.

74 E. Aubeny, *supra* note 71, slide 10.

75 Cushla Managh, *Dramatic rise in urgent pill sales*, THE DOMINION POST, Feb. 5, 2004, at 2.

76 THE EMERGENCY CONTRACEPTION NEWSL. (Am. Soc'y for Emergency Contraception, Princeton, N.J. & Int'l Consortium for Emergency Contraception, Durham, N.C.), Winter 2002/2003, *at* 15, *available at* http://www.cecinfo.org/files/ecupdate-02-7-2.rtf.

77 *Id.*, at 16.

78 A. Lovvorn et al., *Provision of Emergency Contraceptive Pills to Spermicide Users in Ghana*, 61 CONTRACEPTION 287–93 (2000).

79 *Young Women With Advance Supply of EC No Less Likely To Use Other Contraceptives Than Women Without EC, Study Says*, KAISER DAILY REPRODUCTIVE HEALTH REPORT, Mar. 31, 2004, *at* http://www.kaisernetwork.org/daily_reports/print_report.cfm?DR_ID=22951&dr_cat=2.

80 Family Health International (FHI), *Easy Access to Pills Helps Method Succeed: Requiring prescriptions for emergency contraceptive pills is a major barrier to effective use*, 21 NETWORK (2001), *available at* http://www.fhi.org/en/RH/Pubs/Network/v21_1/NWvol21-1emergcontracces.htm.

81 For instance, the Federation of Obstetrics and Gynaecological Society of India established an EC hotline in April 2003. *See Emergency contraceptive help's just a phone call away*, THE TIMES OF INDIA, May 24, 2003, *available at* http://timesofindia.indiatimes.com/cms.dll/html/uncomp/articleshow?msid=47320241.

82 Letter from Steven Galson, Acting Director, Center for Drug Evaluation and Research, Dep't of Health and Human Services, to Joseph A. Carrodo, Senior Director, Regulatory Affairs, Barr Research, Inc., May 7, 2005, *available at* http://www.fda.gov/cder/drug/infopage/planB/default.htm.

83 *Id. See also*, Liza Mundy, "Dubious Conceptions," SLATE, June 1, 2004, *available at* http://www.slate.com/id/2101525/.

84 *AMA Urges FDA to Allow Over-the-Counter Sale of Emergency Contraception*, KAISER DAILY REPRODUCTIVE HEALTH REPORT, Dec. 6, 2000, *at* http://www.kaisernetwork.org/daily_reports/print_report.cfm?DR_ID=1492&dr_cat=2.

85 The Henry J. Kaiser Family Foundation, *Women's Fact Sheet: Emergency Contraceptive Pills* (Feb. 2004), *available at* http://www.kff.org/womenshealth/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=31598; *Maine Governor Signs Bill To Authorize Pharmacists to Dispense EC Without Doctor's Prescription*, KAISER DAILY REPRODUCTIVE HEALTH REPORT, Mar. 24, 2004, *at* http://www.kaisernetwork.org/daily_reports/print_report.cfm?DR_ID=22838&dr_cat=2.

86 *See N.H. Senate Approves Bill That Would Allow Women to Purchase EC From Pharmacists Without Prescription*, KAISER DAILY REPRODUCTIVE HEALTH REPORT, Mar. 22, 2004, *at* http://www.kaisernetwork.org/daily_reports/print_report.cfm?DR_ID=22797&dr_cat-2; *see New York Assembly Approves Bill That Would Allow EC To Be Sold Without Prescription*, KAISER DAILY

REPRODUCTIVE HEALTH REPORT, Feb. 4, 2004, *at* http://www.kaisernetwork.org/daily_reports/print_report.cfm?DR_ID=22024&dr_cat=2; *see Illinois House Committee Approves Bill That Would Allow Sale of EC Without Doctor's Prescription*, KAISER DAILY REPRODUCTIVE HEALTH REPORT, Feb. 26, 2004, *at* http://www.kaisernetwork.org/daily_reports/print_report.cfm?DR_ID=22386&dr_cat=2.

87 Center for Policy Alternatives, *Emergency Contraception for Sexual Assault Survivors* (2003), *at* http://www.stateaction.org/issues/ecsexualassault/index.cfm.

88 *See* Coe, *supra* note 43, at 1.

89 RUPSA MALLIK, CENTER FOR HEALTH AND GENDER EQUITY, BEYOND THE MAGIC BULLET: INTRODUCTION OF EMERGENCY CONTRACEPTIVE PILLS IN INDIA 2 (2003), *available at* http://www.genderhealth.org/pubs/MallikECPillsIndiaJul2003.pdf.

90 Center for Policy Alternatives, *supra* note 87. *See also* Naral Pro-Choice Minnesota, *Fact Sheet: Rape Survivors Deserve the Standard of Care: Emergency Contraception* (Jan. 12, 2004), *available at* http://www.prochoiceminnesota.org/s06factsheets/200311056.shtml.

91 MARIA DE BRUYN, IPAS, VIOLENCE, PREGNANCY AND ABORTION: ISSUES OF WOMEN'S RIGHTS AND PUBLIC HEALTH 12 (2nd ed. 2003), *available at* http://www.ipas.org/english/publications/violence_womens_rights_en.pdf.

92 *Id.*

93 *Id.* at 35.

94 LACEC, *supra* note 17.

95 International Planned Parenthood Federation, *Assistance to survivors of sexual violence in Buenos Aires*, (Aug. 27, 2003), *available at* http://ippfnet.ippf.org/pub/IPPF_News/News_Details_s.asp?ID=2872.

96 *See* DE BRUYN, *supra* note 91, at 36.

97 Chile, Ministry of Health, Resolution No. 527 (April 6, 2004). Under this resolution, parental consent is required for EC provision to victims of sexual assault who are minors.

98 Coe, *supra* note 43, at 3.

99 *See* DE BRUYN, *supra* note 91, at 35.

100 Mexico, *Norma Official* NOM-005-SSA2-1993 at § 5.3.1.1.

101 *See* DE BRUYN, *supra* note 91, at 45.

102 FAMILY HEALTH BUREAU, MINISTRY OF HEALTH, GOVERNMENT OF SRI LANKA, HANDBOOK ON CONTRACEPTIVE TECHNOLOGY 22 (1996).

103 *See* DE BRUYN, *supra* note 91, at 45.

104 *See id.* at 46.

105 WORLD HEALTH ORGANIZATION (WHO) & UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR) HEALTH AND COMMUNITY SECTION, CLINICAL MANAGEMENT OF SURVIVORS OF RAPE: A GUIDE TO THE DEVELOPMENT OF PROTOCOLS FOR USE IN REFUGEE AND INTERNALLY DISPLACED PERSON SITUATIONS, WHO/RHR/02.08 (2002), *available at* http://www.rhrc.org/pdf/cmrs1.pdf.

106 THE EMERGENCY CONTRACEPTION NEWSL., *supra* note 42, at 15.

107 WHO & UNHCR, *supra* note 105, annex 7.

108 UNHCR, REPRODUCTIVE HEALTH IN REFUGEE SITUATIONS, AN INTER-AGENCY FIELD MANUAL 40, 43 (1999), *available at* http://www.ippf.org/resource/refugeehealth/manual/index.htm; UNHCR, SEXUAL AND GENDER-BASED VIOLENCE AGAINST REFUGEES, RETURNEES AND INTERNALLY DISPLACED PERSONS, GUIDELINES FOR PREVENTION AND RESPONSE 148 (2003) *available at* http://www.unicef.org/gl_sgbv03.pdf.

109 *See* DE BRUYN, *supra* note 91, at 14.

110 These states are California, Illinois, New Mexico, New York, and Washington. The Alan Guttmacher Institute, *State Policies in Brief: Access to Emergency Contraception*, May 1, 2004, *available at* http://www.agi-usa.org/pubs/spib_EC.pdf.

111 This state is Ohio. *Id.*

112 These states are California, New Mexico, New York, South Carolina, and Washington. *Id.*

113 These states are Ohio and Oregon. Oregon also directs health-care providers who decline to provide EC to refer the patient to another health-care provider. *Id.*

114 The Henry J. Kaiser Family Foundation, supra note 85.

115 *See* CATHOLICS FOR A FREE CHOICE (CFFC), SECOND CHANCE DENIED: EMERGENCY CONTRACEPTION IN CATHOLIC HOSPITAL EMERGENCY ROOMS 15 (2000), *available at* http://www.catholicsforchoice.org/PDF/EC%20Study.pdf; *see also* Planned Parenthood Federation of America, *Fact Sheet: Obstructing Access to Emergency Contraception in Hospital Emergency Rooms, available at* http://www.plannedparenthood.org/library/facts/obstructing_032102.html.

116 *See The Center for Reproductive Rights And Mexican Partners Seek Justice For Young Mexican Rape Victim*, 11 REPRODUCTIVE FREEDOM NEWS

(Center for Reproductive Rights (CRR)), April 2002, *available at* http://www.reproductiverights.org/rfn_02_04.html #special; *see also* Press Release, CRR, Center for Reproductive Rights Seeks Justice in International Body for Young Mexican Rape Victim Denied Abortion (Mar. 6, 2002), *available at* http://www.reproductiverights.org/pr_02_0306paulina.html.

117 Press Release, Center for Reproductive Rights, *supra* note 116.

118 11 REPRODUCTIVE FREEDOM NEWS, *supra* note 116.

119 REBECCA J. COOK & BERNARD DICKENS, WHO, CONSIDERATIONS FOR FORMULATING REPRODUCTIVE HEALTH LAWS 34 (2000).

120 Chile, Ministry of Health, *supra* note 97.

121 ICEC, EXPANDING GLOBAL ACCESS TO EMERGENCY CONTRACEPTION, *supra* note 49, at 87.

122 *Id.*

123 *Id.* at 54.

124 Press Release, UNFPA, Adolescents Need Access to Reproductive Health Information and Services, UNFPA Executive Director Thoraya Obaid Stresses (May 10, 2002), *available at* http://www.unfpa.org/news/news.cfm?ID=79&Language=1.

125 *See id.*

126 WHO, *Fact Sheet N°276: Making Pregnancy Safer*, Feb. 2004, at 3, *available at* http://whqlibdoc.who.int/fact_sheet/2004/FS_276.pdf.

127 *Contraceptive Use Does Not Decline Among Teenage Mothers Supplied With Emergency Contraception, Study Says*, KAISER DAILY REPRODUCTIVE HEALTH REPORT, Mar. 21, 2003, *at* http://www.kaisernetwork.org/daily_reports/rep_index.cfm?hint=2&DR_ID=16724. Eighteen percent of teenagers who did not receive an advance supply of EC became pregnant within six months, while only 7% of teenagers who did get an advance supply became pregnant within the same time frame.

128 UNFPA, *supra* note 124.

129 WHO, *supra* note 126 at 2.

130 France, Public Health Code, art. L5134-1, at http://www.legifrance.gouv.fr/WAspad/UnArticleDeCode?commun=CSANPU&art=L5134-1 (last visited Sept. 23, 2004); *French Government Allows Minors to Receive Free Emergency Contraception Without Prescription or Parental Approval*, KAISER DAILY REPRODUCTIVE HEALTH REPORT, Jan. 11, 2002, *at* http://kaisernetwork.org/Daily_reports/rep_index.cfm?DR_ID=8904. The decree requires pharmacists dispensing the drugs to "speak briefly with the young women" to ensure that they know how to use the medication. The decree also said that pharmacists should provide advice to young women seeking EC about other forms of birth control and recommend that they visit a physician regularly. *Id.*

131 France, Law No. 2000–1209 of Dec. 13, 2000, J.O., Dec. 14, 2000, p. 19830 (FR.).

132 Cécile Calla, *Près de six mille jeunes filles ont obtenu la pilule du lendemain auprès de leur infirmière scolaire en 2001–2002; Au lycée, le Norlévo est entré dans les moeurs*, LE FIGARO, Dec. 20, 2002.

133 France, Law No. 2000–1209 of Dec. 13, 2000, *supra* note 131.

134 *See* Calla, *supra* note 132.

135 *Emergency Contraception to Become Available Without Prescription in England*, KAISER DAILY REPRODUCTIVE HEALTH REPORT, Dec. 11, 2000, *at* http://www.kaisernetwork.org/daily_reports/rep_index.cfm?DR_ID=1589.

136 International Planned Parenthood Federation, *UK Supermarkets to Provide Emergency Contraception*, Mar. 20, 2002, *available at* http://ippfnet.ippf.org/pub/IPPF_News/News_Details_s.asp?ID=1853.

137 *School Offers Morning-After Pill*, BBC NEWS, Sept. 30, 2002, *available at* http://news.bbc.co.uk/1/hi/england/2288221.stm.