

TABLE OF CONTENTS

| | |
|--|------|
| FOREWORD | v |
| LIST OF TABLES | viii |
| GLOSSARY OF ACRONYMS AND ABBREVIATIONS | ix |
| | |
| I. UNDERSTANDING THE RIGHT TO REPRODUCTIVE CHOICE | 1 |
| 1. Locating the Rationale for the Right to Reproductive Choice: What is the Issue? | 1 |
| 2. The Links Between the Right to Reproductive Choice and Contemporary Problems | 5 |
| 3. The Formation of the Right to Reproductive Choice at the International Level | 9 |
| | |
| II. ARTICULATIONS OF THE RIGHT TO REPRODUCTIVE CHOICE IN INTERNATIONAL LAW | 14 |
| 1. Defining the Right to Reproductive Choice | 14 |
| 2. Sources of the Right to Reproductive Choice: In General | 18 |
| 3. Sources of the Right to Reproductive Choice in International Law | 23 |
| 3.1 Introduction | 23 |
| 3.2 Sources of the Right to Found a Family | 24 |
| 3.3 Sources of the Right to Decide the Number and Spacing of Children | 27 |
| 3.4 Sources of the Right to Family Planning Information and Education | 29 |
| 3.5 Sources of the Right to Access to Family Planning Services | 32 |

| | | |
|------|---|-----|
| III. | ESTABLISHING THE PARAMETERS OF PROTECTION OF THE RIGHT TO REPRODUCTIVE CHOICE IN INTERNATIONAL HUMAN RIGHTS LAW | 42 |
| 1. | Introduction | 42 |
| 2. | The Scope of the Right to Reproductive Choice | 43 |
| 2.1 | The Scope of the Right to Found a Family | 43 |
| 2.2 | The Scope of the Right to Decide the Number and Spacing of Children | 55 |
| 2.3 | The Scope of the Right to Family Planning Information and Education | 65 |
| 2.4 | The Scope of the Right to Access to Family Planning Services | 69 |
| 3. | Beneficiaries of the Right to Reproductive Choice | 76 |
| 3.1 | Introduction | 76 |
| 3.2 | Gender, Marital Status and Couples | 82 |
| 3.3 | Adolescents | 88 |
| 3.4 | Mentally Disabled Persons | 90 |
| 3.5 | Individuals with Hereditary Illnesses | 91 |
| 4. | Obligations of the State | 91 |
| 4.1 | Establishing State Responsibility | 93 |
| 4.2 | Negative and Positive Obligations | |
| 4.3 | Reproductive Choice as a Private Matter Publicly Protected | 94 |
| IV. | OBSTACLES AND CHALLENGES TO THE FULL REALIZATION OF THE RIGHT TO REPRODUCTIVE CHOICE | 98 |
| 1. | Population Policies | 98 |
| 1.1 | State Interpretations of 'Responsible' Reproductive Choice | 98 |
| 1.2 | The Use of Incentives for 'Responsible' Decision-Making | 102 |
| 2. | Cultural and Religious Norms | 104 |
| 3. | The Cost of Reproductive Choice | 110 |
| 3.1 | State Obligations: The Principle of Relativity | 110 |
| 3.2 | Examining the Real Costs | 111 |

| | | |
|------|---|-----|
| V. | SECURING RESPECT FOR THE RIGHT TO REPRODUCTIVE CHOICE THROUGH THE WOMEN'S CONVENTION | 115 |
| | 1. Implementation in General | 115 |
| | 2. The System of Supervision | 116 |
| | 2.1 Weaknesses in the Reporting System and Efforts Towards Improvement | 116 |
| | 2.2 CEDAW's Monitoring of the Right to Reproductive Choice | 119 |
| | 3. The Problem of Reservations Affecting Reproductive Choice | 120 |
| | 3.1 Introduction | 120 |
| | 3.2 Admissibility of Reservations in General | 127 |
| | 3.3 Reservations on the Grounds of Religion | 132 |
| | 3.4 Reservations Concerning Discrimination Rooted in Culture | 136 |
| | 3.5 Reservations Concerning Settlement | 137 |
| | 3.6 Strengthening the Women's Convention | 138 |
| VI. | SECURING RESPECT THROUGH OTHER MEANS | 140 |
| | 1. Other Legal Means | 140 |
| | 2. Non-Legal Means | 143 |
| | 2.1 Extra-Conventional Mechanisms | 143 |
| | 2.2 The Role of International Assistance | 145 |
| VII. | EXPANDING THE REACH OF THE RIGHT TO REPRODUCTIVE CHOICE | 149 |
| | 1. Expanding the Recognition of Serious Violations of the Right to Reproductive Choice | 149 |
| | 1.1 The Recognition of Forced Pregnancy as a Serious Violation | 149 |
| | 1.2 The Right to Asylum as a Result of Serious Violations of the Right to Reproductive Choice | 153 |
| | 2. Expanding Implementation through the Work of International Organizations | 156 |
| | 3. The Way Forward | 158 |

| | |
|--|-----|
| APPENDIX A. EXCERPTS FROM THE PROGRAMME OF ACTION OF THE 1994 INTERNATIONAL CONFERENCE ON POPULATION AND DEVELOPMENT | 162 |
| APPENDIX B. EXCERPTS FROM THE PLATFORM FOR ACTION OF THE 1995 FOURTH WORLD CONFERENCE ON WOMEN | 169 |
| APPENDIX C. STATES PARTIES TO INTERNATIONAL HUMAN RIGHTS TREATIES WITH RELEVANCE TO THE RIGHT TO REPRODUCTIVE CHOICE | 173 |
| APPENDIX D. GENERAL COMMENT NO. 19 ADOPTED BY THE HUMAN RIGHTS COMMITTEE, REGARDING ARTICLE 23 (ON THE RIGHT TO MARRY AND FOUND A FAMILY) | 178 |
| APPENDIX E. GENERAL RECOMMENDATION NO. 21 ADOPTED BY THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN REGARDING EQUALITY IN MARRIAGE AND FAMILY RELATIONS | 181 |
| APPENDIX F. EXCERPTS FROM GENERAL COMMENT NO. 24 ADOPTED BY THE HUMAN RIGHTS COMMITTEE, REGARDING ARTICLE 52 (RELATING TO RESERVATIONS) | 184 |
| BIBLIOGRAPHY | 187 |
| TABLE OF TREATIES | 204 |
| TABLE OF CASES | 206 |
| INDEX OF TERMS | 208 |