

# **HEALTH AND HUMAN RIGHTS**

P8790 (3 credits)

Fall 2006

Monday, 1:00 – 3:00 PM

HSC 322

## **INSTRUCTOR**

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## **COURSE DESCRIPTION**

Human rights are inextricably linked to the achievement of public health goals. This course provides an introduction to the relationship between health and human rights. As a survey course, it ranges broadly over theoretical approaches and concrete issues relating to the realization of human rights in the context of domestic and international public health policies. For public health students seeking to gain an understanding of human rights, this course will complement other rights-based courses at Columbia, giving students a foundation for future studies at the intersection of human rights and public health.

The focus of this course will be on rights-based approaches to health, applying a human rights perspective to selected public health policies, programs, and interventions. Specifically, this course will teach students how to apply a formalistic human rights framework to a wide range of critical issues in public health, exploring the role of human rights as both a safeguard against harm and a catalyst for health promotion. Upon completion, students will have acquired an understanding of the social, economic, cultural, legal, and political processes by which human rights inform public health objectives.

## **COURSE LEARNING OBJECTIVES**

Students who successfully complete this course will be able to:

- Understand international legal documents and apply these texts to domestic and international health issues.
  - Distinguish the normative framework of international human rights standards from nonformalistic commitments to social justice, bioethics, and morality.

- Describe the differential synergies between health and either positive (economic, social, and cultural) or negative (civil and political) human rights obligations.
- Identify the means through which human rights violations harm public health.
- Evaluate the mechanisms by which human rights can inform public health initiatives.
  - Identify ways in which human rights are used to promote health.
  - Identify ways in which human rights serve to protect individuals from harm.
- Analyze instances in which conflict can arise between public health priorities and human rights protections.

## **COURSE STRUCTURE**

This course is divided into four major units with issues grouped so as to typify those issues most pressing in the health and human rights literature:

Unit 1:	Issues in Human Rights, Impacts on Health
Unit 2:	Health as a Human Right
Unit 3:	Applications of Human Rights to Health Promotion and Disease Prevention
Unit 4:	Ethics, Human Rights, and Health Professionals: Ethical Obligations of Health Professionals in the Face of Human Rights Violations

## **ASSIGNMENTS**

Student grades will be based on:

Three (3) Position Papers	30%
Final Paper	45%
Participation	25%

### Position Papers

The position papers should provide a succinct (<500 word) analysis and/or critique of a specific aspect of the readings. The three (3) position papers will be due one (1) week after the conclusion of each respective unit. (Note: There will be no position paper due at the conclusion of the fourth unit.) The position papers should not be summaries of the readings but should instead offer thoughtful reactions to several of the readings in that unit.

### Final Paper

The final research paper is a substantial piece of writing (15-20 pages) relying heavily on secondary source material (and primary sources to the degree necessary). The paper should make use of both course and outside readings and investigate an issue of interest to the student.

### Participation

The course is a seminar and will not rely entirely on professorial lecture. Consequently, attendance and participation are mandatory. Students should come to class having read all of the required readings, prepared to raise provocative questions for discussion.

As part of the student's grade for participation, each student will be responsible for presenting a written and oral summary of a week's readings. Summary assignments will be selected during the first class.

## **SEMINAR SCHEDULE**

### **Unit 1: Issues in Human Rights, Impacts on Health**

**September 11, 2006**

#### **Week 1: Globalization of Public Health: Employing International Law for Health**

##### Required Readings

- Solomon R. Benatar, *Global Disparities in Health and Human Rights: A Critical Commentary*, 88 AM. J. PUB. HEALTH 295 (1998).
- David P. Fidler, *The Globalization of Public Health: The First 100 Years of International Health Diplomacy*, 79 BULL. WORLD HEALTH ORG. 842 (2001).
- Allyn L. Taylor, *Governing the Globalization of Public Health*, 32 J.L. MED. & ETHICS 500 (2004).

##### Optional Readings

- David P. Fidler, *International Law and Global Public Health*, 48 U. KAN. L. REV. 1 (1999).
- Laurie Garrett, *The Return of Infectious Disease*, 74 FOREIGN AFF. 66 (1996).

**September 18, 2006**

#### **Week 2: Human Rights vs. Social Justice as Tools for Health Promotion**

##### Required Readings

- JACK DONNELLY, UNIVERSAL HUMAN RIGHTS IN THEORY AND PRACTICE 7-21 (2d ed. 2001).
- Jonathan M. Mann et al., *Health and Human Rights*, in HEALTH AND HUMAN RIGHTS 7 (Jonathan M. Mann et al., eds. 1999).
- Gerald M. Oppenheimer et al., *Health and Human Rights: Old Wine in New Bottles*, 30 J. L., MED. & ETHICS 522 (2002).
- Paul Farmer, *Pathologies of Power: Rethinking Health and Human Rights*, 89 AM. J. PUB. HEALTH 1486 (1999).

##### Optional Readings

- Sofia Gruskin & Daniel Tarantola, *Health and Human Rights*, in OXFORD TEXTBOOK OF PUBLIC HEALTH 311 (Roger Detels et al. eds., 4th ed. 2002).
- Louis Henkin, *The Age of Rights*, in HUMAN RIGHTS: IDEA AND IDEOLOGY (Louis Henkin et al. eds., 1999).
- Stephen P. Marks, *Jonathan Mann's Legacy to the 21st Century: The Human Rights Imperative for Public Health*, 29 J.L. MED. & ETHICS 131 (2001).

- Lawrence O. Gostin, *A Vision of Health and Human Rights for the 21st Century: A Continuing Discussion with Stephen P. Marks*, 29 J.L. MED. & ETHICS 139 (2001).

## September 25, 2006

### Week 3: Positive vs. Negative Rights?

#### Required Readings

- LOUIS HENKIN ET AL., HUMAN RIGHTS 320-30 (1999).
- HENRY J. STEINER & PHILIP ALSTON, INTERNATIONAL HUMAN RIGHTS IN CONTEXT 138-41, 244-47 (2d ed. 2000).
- Peter D. Jacobson & Soheil Soliman, *Co-opting the Health and Human Rights Movement*, 30 J.L. MED. & ETHICS 705 (2002).
- Tony Evans, *A Human Right to Health*, 23 THIRD WORLD Q 197-215 (2002).

#### Optional Readings

- HENRY SHUE, BASIC RIGHTS: SUBSISTENCE, AFFLUENCE, AND U.S. FOREIGN POLICY 35-40 (1980).
- Henry J. Steiner & Philip Alston, *Comment on Historic Origins of Economic, Social and Cultural Rights*, in INTERNATIONAL HUMAN RIGHTS IN CONTEXT 256 (Henry J. Steiner & Phillip Alston eds. 1996).

## October 2, 2006

### Week 4: Cultural Relativism in Health

#### Required Readings

- Dianne Otto, *Rethinking the "Universality" of Human Rights Law*, 29 COLUM. HUM. RTS. L. REV. 1 (1997).
- Mahmood Monshipouri, *Promoting Universal Human Rights: Dilemmas of Integrating Developing Countries*, 4 YALE HUM. RTS. & DEV. L.J. 25 (2001).
- Sandra D. Lane and Robert A. Rubinstein, *Judging the Other: Responding to Traditional Female Genital Surgeries*, 26 HASTINGS CENTER REP. 31 (1996).
- Elysa Gordon, Note, *Multiculturalism in Medical Decisionmaking: The Notion of Informed Waiver*, 23 FORDHAM URB. L.J. 1321 (1996).

#### Optional Readings

- Fernando Teson, *International Human Rights and Cultural Relativity*, 25 VA. J. INT'L L. 869 (1985).
- Ann-Belinda S. Preis, *Human Rights as Cultural Practice: An Anthropological Critique*, 18 HUM. RTS. Q. 286 (1996).
- M. Susser, *Health as a Human Right: An Epidemiologist's Perspective on the Public Health*, 83 AM. J. PUB. HEALTH 418 (1993).

## **Unit 2: Health as a Human Right**

**October 9, 2006**

**Week 5: Is There a Human Right to Health? Is There a Human Right to Health Care?  
\* First Position Paper Due**

### **Required Readings**

- Eleanor D. Kinney, *The International Human Right to Health: What Does This Mean for Our Nation and World?*, 34 IND. L. REV. 1457 (2001).
- Alicia Ely Yamin, *The Right to Health Under International Law and Its Relevance to the United States*, 95 AM. J. PUB. HEALTH 1156 (2005).
- International Covenant on Economic Social and Cultural Rights, G.A. Res. 2200, U.N. GAOR, 21st Sess., Supp. No. 16, art. 12, U.N. Doc. A/6316 (1966).
- The Right to the Highest Attainable Standard of Health, CESCR General Comment 14, U.N. Committee on Economic, Social and Cultural Rights, 22d Sess., Agenda Item 3, U.N. Doc. E/C.12/2000/4 (2000).
- Katherine Gorove, *Shifting Norms in International Health Law*, 98 AM. SOC'Y INT'L L. PROC. 18 (2004).
- Benjamin Mason Meier & Larisa M. Mori, *The Highest Attainable Standard: Advancing a Collective Human Right to Public Health*, 37 COLUMBIA HUMAN RIGHTS L. REV. 101 (2005).

### **Optional Readings**

- BRIGIT C.A. TOEBES, THE RIGHT TO HEALTH AS A HUMAN RIGHT IN INTERNATIONAL LAW 17-18 (1999).
- The Right of Everyone to the Highest Attainable Standard of Physical and Mental Health: Report of the Special Rapporteur, Paul Hunt, submitted in accordance with Commission Resolution 2002/31, U.N. ESCOR, 59th Sess., Agenda Item 23, ¶ 20, U.N. Doc. E/CN.4/2003/58 (2003).
- Virginia A. Leary, *Implications of a Right to Health*, in HUMAN RIGHTS IN THE TWENTY-FIRST CENTURY 481 (Kathleen E. Mahoney & Paul Mohoney eds. 1993).
- Aart Hendriks, *The Right to Health in National and International Jurisprudence*, 5 EUR. J. HEALTH L. 389, 394 (1998).
- Audrey R. Chapman, *Core Obligations Related to the Right to Health*, in CORE OBLIGATIONS: BUILDING A FRAMEWORK FOR ECONOMIC, SOCIAL AND CULTURAL RIGHTS 185 (Audrey Chapman & Sage Russell eds. 2002).

**October 16, 2006**

**Week 6: Applying the Right to Health: Access to Medications**

### **Required Readings**

- ROSALIND POLLACK PETCHESKY, GLOBAL PRESCRIPTIONS: GENDERING HEALTH AND HUMAN RIGHTS 116-24 (2002) (for a detailed chronology of the global campaign for access to medicines, read pages 76-124).
- Alicia Ely Yamin, *Not Just a Tragedy: Access to Medications as a Right Under International Law*, 21 B.U. INT'L L.J. 325 (2003) (only read to page 341).

- Leonard S. Rubenstein, *Human Rights and Fair Access to Medication*, 17 EMORY INT'L L. REV. 525, 530 (2003).
- George J. Annas, *The Right to Health and the Nevirapine Case in South Africa*, 348 NEW ENG. J. MED. 750 (2003).
- Mary Ann Torres, *The Human Right to Health, National Courts, and Access to HIV/AIDS Treatment: A Case Study from Venezuela*, 3 CHIC. J. INT'L L. 105 (2002).

#### Optional Readings

- WORLD HEALTH ORG. & WORLD TRADE ORG., WTO AGREEMENTS & PUBLIC HEALTH: A JOINT STUDY BY THE WHO AND THE WTO SECRETARIAT 87-110 (2002).

**October 23, 2006**

### **Week 8: Employing International Law to Advance the Right to Health: The Case of Global Tobacco Control**

#### Required Readings

- Derek Yach & Douglas Bettcher, *Globalisation of Tobacco Industry Influence and New Global Responses*, 9 TOBACCO CONTROL 206 (2000).
- Virginia Leary, *Concretizing the Right to Health: Tobacco Use as a Human Rights Issue*, in RENDERING JUSTICE TO THE VULNERABLE 161 (Fons Coomans et al. eds. 2000).
- Benjamin Mason Meier, *Breathing Life into the Framework Convention on Tobacco Control: Smoking Cessation and the Right to Health*, 5 YALE J. HEALTH POL., L. & ETHICS 137 (2005).

#### Optional Readings

- WHO Framework Convention on Tobacco Control.
- *International Law and Health, Two Approaches: The World Health Organization's Tobacco Initiative and International Drug Controls, Summary of Remarks by Allyn L. Taylor*, 94 AM. SOC'Y INT'L L. PROC. 193 (2000).
- Jeff Collin et al., *The Framework Convention on Tobacco Control: The Politics of Global Health Governance*, 23 THIRD WORLD Q. 265, 273 (2002).

## **Unit 3: Applications of Human Rights to Health Promotion and Disease Prevention**

**October 30, 2006**

### **Week 7: Reproductive Health as a Human Right**

**\* Second Position Paper Due**

#### Required Readings

- Alicia Ely Yamin, *Transformative Combinations: Women's Health and Human Rights*, 54 J. AM. MED. WOMEN'S ASS'N 169 (1997).
- Donna J. Sullivan, *The Nature and Scope of Human Rights Obligations Concerning Women's Right to Health*, 1 HEALTH & HUM. RTS. 369 (1995).
- Lynn Freedman, *Censorship and Manipulation of Reproductive Health Information: An Issue of Human Rights and Women's Health*, in HEALTH AND HUMAN RIGHTS 145-78 (Jonathan M. Mann et al., eds. 1999).
- CENTER FOR REPRODUCTIVE RIGHTS, SURVIVING PREGNANCY AND CHILDBIRTH: AN INTERNATIONAL HUMAN RIGHT (2005).

### Optional Readings

- Lynn Freedman & Stephen L. Isaacs, *Human Rights and Reproductive Choice*, 24 STUDIES IN FAMILY PLANNING 18 (1993).
- Jacques du Guerny & Elisabeth Sjöberg, *Interrelationship Between Gender Relations and the HIV/AIDS Epidemic: Some Possible Considerations for Policies and Programs*, in HEALTH AND HUMAN RIGHTS 202-15 (Jonathan M. Mann et al., eds. 1999).
- Adrienne Germain, *Reproductive Health and Human Rights*, 363 LANCET 65 (2004).
- Dina Bogecho, *Putting It to Good Use: The International Covenant on Civil and Political Rights and Women's Right to Reproductive Health*, LAW, SOCIAL JUSTICE & GLOBAL DEVELOPMENT JOURNAL (2004).

### **November 6, 2006**

#### **Week 9: Economic Development for Health**

#### **\* One page outline of final paper due**

### Required Readings

- Brooke G. Schoepf et al., *Theoretical Therapies, Remote Remedies: SAPs and the Political Ecology of Poverty and Health in Africa*, in DYING FOR GROWTH: GLOBAL INEQUALITY AND THE HEALTH OF THE POOR (Jonathan Mann et al. eds. 2000).
- Paula Braveman & Sofia Gruskin, *Poverty, Equity, Human Rights and Health*, 81 BULL. WORLD HEALTH ORG. 539 (2003).
- Stephen Marks, *The Human Right to Development: Between Rhetoric and Reality*, 17 HARV. HUM. RTS. J. 137 (2004).

### Optional Readings

- KELLEY LEE, *GLOBALIZATION AND HEALTH: AN INTRODUCTION* 185-215 (2003).
- Reidar K. Lei, *Health, Human Rights and Mobilization of Resources for Health*, 4 BMC INT'L HEALTH & HUMAN RTS (2004).
- Joyce V. Millen & Timothy H. Holtz, *Dying for Growth, Part I: Transnational Corporations and the Health of the Poor*, in DYING FOR GROWTH: GLOBAL INEQUALITY AND THE HEALTH OF THE POOR 177-224 (2000).
- WORLD HEALTH ORG., *MACROECONOMICS AND HEALTH: INVESTING IN HEALTH FOR ECONOMIC DEVELOPMENT* 1-20 (2001).

### **November 13, 2006**

#### **Week 10: Chronic Illness: A Human Rights Approach to Disability and Mental Health Readings**

- Lawrence O. Gostin & Lance Gable, *The Human Rights of Persons with Mental Disabilities: A Global Perspective on the Application of Human Rights Principles to Mental Health*, 63 MD. L. REV. 20 (2004) (read only through Part II).
- Eric Rosenthal & Clarence J. Sundram, *International Human Rights and Mental Health Legislation*, 21 N.Y. L. SCH. J. INT'L & COMP. L. 469 (2002).
- Aart Hendriks, *Disabled Persons and Their Right to Equal Treatment: Allowing Differentiation While Ending Discrimination*, in HEALTH AND HUMAN RIGHTS 113-29 (Jonathan M. Mann et al., eds. 1999).

### Optional Readings

- Draft Convention on the Fundamental Rights of Persons with Disabilities (2003).

- Erica-Irene A. Daes, Principles, Guidelines and Guarantees for the Protection of Persons Detained on Grounds of Mental Ill-Health or Suffering from Mental Disorder, U.N. ESCOR, U.N. Doc E/CN.4/Sub.2/17 (1986).

#### **Unit 4: Ethics, Human Rights, and Health Professionals: Ethical Obligations of Health Professionals in the Face of Human Rights Violations**

**November 20, 2006**

**Week 11: The Nuremberg Principles: Health Workers as Agents of Harm**

**\* Third Position Paper Due**

##### Required Readings

- GEORGE J. ANNAS & MICHAEL A. GRODIN, THE NAZI DOCTORS AND THE NUREMBERG CODE: HUMAN RIGHTS IN HUMAN EXPERIMENTATION 2-6, 174-80 (1992).
- Telford Taylor, Opening Statement of the Prosecution, December 9, 1946, at <http://www.ushmm.org/research/doctors/telford.htm> (read online for background).
- Jeremiah A. Barondess, *Medicine Against Society: Lessons from the Third Reich*, 276 JAMA 1657 (1996).
- HUMAN RIGHTS AND HEALTH: THE LEGACY OF APARTHEID 1-15, 119-30 (Audrey R. Chapman & Leonard S. Rubenstein eds. 1998).

##### Optional Readings

- George J. Annas & Michael A. Grodin, *Medical Ethics and Human Rights: Legacies of Nuremberg*, 3 HOFSTRA L. & POL'Y SYMP. 111 (1999).
- Benjamin Mason Meier, *International Criminal Prosecution of Physicians: A Critique of Professors Annas and Grodin's International Medical Tribunal*, 30 AM. J. L. & MED. 419 (2004).
- Victor W. Sidel, *The Social Responsibilities of Health Professionals: Lessons from Their Role in Nazi Germany*, 276 JAMA 1679 (1996).

**November 27, 2006**

**Week 12: Torture and Capital Punishment**

##### Required Readings

- British Medical Association, *Torture, Cruel and Degrading Treatment, in THE MEDICAL PROFESSION AND HUMAN RIGHTS. HANDBOOK FOR A CHANGING AGENDA* 56-96 (2001).
- Torsten Lucas & Christian Pross, *Caught Between Conscience and Complicity: Human Rights Violations and the Health Professions*, 2 MED. & GLOBAL SURVIVAL 106 (1995).
- Steven H. Miles, *Abu Ghraib: Its Legacy for Military Medicine*, 364 LANCET 725 (2004).
- Council on Ethical & Judicial Aff., Am. Med. Ass'n, *Physician Participation in Capital Punishment*, 270 JAMA 365, 367 (1993).

##### Optional Readings

- Robert Truog & Troyen Brennan, *Participation of Physicians in Capital Punishment*, 329 N. ENG. J. MED. 1346 (1993).
- Scott Long, *When Doctors Torture: The Anus and the State in Egypt and Beyond*, 7 HEALTH & HUM. RTS. 114 (2004).

- Amer. College of Physicians, *The Role of the Physician and the Medical Profession in the Prevention of International Torture and in the Treatment of its Survivors*, 122 ANN. INTERNAL MED. 607 (1995).

## **December 4, 2006**

### **Week 13: Human Experimentation**

#### Required Readings

- David P. Fidler, “Geographical Morality” Revisited: *International Relations, International Law, and the Controversy over Placebo-Controlled HIV Clinical Trials in Developing Countries*, 42 HARV. INT’L L.J. 299 (2001).
- John Jones, Harold Varmus & David Satcher, *Ethical Complexities of Conducting Research in Developing Countries*, 337 N. ENG. J. MED. 1003 (1997).
- Ronald Bayer, *The Debate Over Maternal-Fetal HIV Transmission Prevention Trials in Africa, Asia, and the Caribbean: Racist Exploitation or Exploitation of Racism?*, 88 AM. J. PUB. HEALTH 567 (1998).

#### Optional Readings

- Benjamin Mason Meier, *International Protection of Persons Undergoing Medical Experimentation: Protecting the Right of Informed Consent*, 20 BERKELEY J. INT’L L. 513 (2002).
- Jay Dyckman, *The Myth of Informed Consent: An Analysis of the Doctrine of Informed Consent and Its (Mis)Application in HIV Experiments on Pregnant Women in Developing Countries*, 91 COLUM. J. GENDER & L. 91 (1999).
- David D. Ho, *It’s AIDS, Not Tuskegee: Inflammatory Comparisons Won’t Save Lives*, TIME, Sept. 29, 1997, at 83.

## **December 11, 2006**

### **Week 14: Human Rights vs. Public Health**

#### Required Readings

- LAWRENCE GOSTIN & ZITA LAZZARINI, HUMAN RIGHTS AND PUBLIC HEALTH IN THE AIDS PANDEMIC 43-55 (1997).
- Int’l Federation of Red Cross and Red Crescent Societies & François-Xavier Bagnoud Center for Health and Human Rights, *The Public Health—Human Rights Dialogue*, in HEALTH AND HUMAN RIGHTS 46-53 (Jonathan M. Mann et al., eds. 1999).
- Lawrence Gostin & Jonathan Mann, *Towards the Development of a Human Rights Impact Assessment for the Formulation and Evaluation of Health Policies*, 1 HEALTH & HUM. RTS. 6 (1994).

#### Optional Readings

- Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights (1985).
- George J. Annas, *The Impact of Health Policies on Human Rights: AIDS and TB Control*, in HEALTH AND HUMAN RIGHTS 37-45 (Jonathan M. Mann et al., eds. 1999).
- DAVID P. FIDLER, INTERNATIONAL LAW AND INFECTIOUS DISEASES 169-79 (1999).

## **December 22, 2006: Final Research Paper Due**