

CENTRAL EUROPEAN UNIVERSITY
DEPARTMENT OF POLITICAL SCIENCE
MA PROGRAM

Fall Semester, 2014/2015

HUMAN RIGHTS AND BIOPOLITICS
Preliminary Course Description
(CROSS-LISTED WITH GENDER STUDIES)
4 credits

Prof. Judit Sándor

Classes Meet: Tuesdays- Thursdays 15:30-17:10

Office Hours: Tuesdays-Thursdays 14:00-15:30 Nádor 15. R# 503.

Location: Faculty Tower

Course Description

Throughout history many attempts have been made to control the size and composition of populations. From the sterilization of the mentally ill to the strong social welfare benefits offered to support childrearing, these were based on different ideologies from eugenic thinking through maintaining ethnic or gender balance to economic nationalism.

These topics of biopolitics lie at the intersection of political science, international relations, philosophy, and human rights. Contemporary mechanisms of promoting human rights have managed to reflect on and regulate some of them, since the prohibition of discrimination, as well as enforcing women's rights and the right to privacy can rule out at least the most drastic population control measures. The interplay between demographic control and human rights provide an innovative approach to this course and offer to the students the possibility to study human rights in this special context, as well as to analyze population politics and biopolitics by developing critical reflections based on the human rights perspectives.

The course offers a unique cross-disciplinary approach by introducing the human rights framework into the analysis of classic and contemporary forms of biopolitics. Works by authors such as Foucault, Agamben, Rose, Esposito, Rothschild, Duster and Habermas will serve as the theoretical bases for the discussions and seminars that will aim to analyze different types of biopolitical endeavors from all parts of the world. Students will be encouraged to bring examples and cases from their own countries or to present on and analyze a selected field within biopolitics. In addition to the seminar discussions of texts and cases, there will be also film screenings to stimulate debates on various thought-provoking issues of biopolitics, such as abortion policies, genetic testing and screening, therapy and enhancement.

Can various forms of biopolitics be assessed by using the theories and methods of human rights? The connection between biopolitics and human rights has been often neglected: not only at the time of classical eugenics but even today. This neglect is even more striking considering that human rights of our present times are increasingly implicated by important norms of biopolitics, such as policy issues related to reproductive and end-of-life decisions; biodiversity and environmental protection; genetic testing, biobanks, and storage of genetic data, among others.

This course deals with the status of, and current challenges to, human rights in this context. By analyzing relevant texts and landmark cases, new generations of human rights will be explored. Is it possible to interpret human rights norms on the level of the human cells? Should access to transplantation, tissues in biobanks, umbilical cord blood, or the results of stem cell research be based on principle of solidarity? Or do we have to acknowledge that we are inevitably drifting towards a more commercial paradigm? The course will focus on recently emerged thematic issues within the domain of human rights, such as right to privacy, international, national and personal security and DNA testing. The main methodology of this course is qualitative analysis of normative texts and cases that contain elements from both the human rights and biopolitical discourses.

Uses and effects of biotechnological advances by now have become the subject of intense debates in society. Yet, the policy impacts of life sciences have remained so far understudied or at least not adequately elaborated – even though issues such as reproduction and gender; the new and emergent forms of discrimination; intellectual property and benefit sharing; and the protection of vulnerable groups, would provide a broad scope of study in this area. During the course the students will analyze normative texts and cases that contain elements from both the human rights and biopolitical discourses. The Reader and the attached bibliography shall provide the basic literature for further studies.

Goals of the course

In order to achieve this end, the main goals of this course are:

- to examine various forms of biopolitics as challenges to human rights; as well as in the related concepts of human rights and constitutional law;
- to encourage critical analytical thinking about the role of human rights in shaping and restricting old and new forms of biopolitics; and
- to analyze various examples and case studies of biopolitics and their impact on human rights.

Learning outcomes by the course

- Skills to analyze and to understand human rights problems raised by new challenges of technological advances;
- Ability to understand and to critically analyze old and new forms of biopolitics and eugenics;

- Capability to find, to analyze and to interpret cases, including their relevance in the political context; and
- Familiarity with basic human rights and to understand their role in the international politics.

Course requirements

Students are required to participate in the discussion of the social and legal issues implicated in the cases and in the literature. Reading assignments and the schedule of the course are enclosed in the detailed syllabus. Course requirements include attendance at lectures and seminars.

Evaluation: active participation in seminar discussion, based on the required readings and seminar presentations (25% of the final grade), and a final essay – a 13 to 15-page research paper on a topic to be chosen after consultation with the instructor (75% of the grade). The paper is due on December 15, 2014. The topic of the final essay should relate to the themes and concepts of the course and the title should be approved on the basis of a written proposal to be submitted at midterm.

Basic materials for this course:

Rose, Nikolas (2007) *The Politics of Life Itself: Biomedicine, Power, and Subjectivity in the Twenty-First Century*. Princeton: Princeton University Press.

Francesco Francioni (2007) *Biotechnologies and International Human Rights*. Oxford: Hart Publishing.

Brooke A. Ackerly (2008) *Universal Human Rights in a World of Difference* Cambridge: Cambridge University Press

Sheila Jasanoff (2011) *Reframing Rights Bioconstitutionalism in the Genetic Age* Cambridge, MA: MIT

Schedule

Week Zero (September 15, 2014)

Introduction: Basic Concepts in the Field of Contemporary Human Rights

Historical and philosophical origins of human rights; emergence of the modern state, the place of the individual therein; and the role of international law in delineating the relationship between the individual and the state. Ratification and implementation of treaties; the successive ‘generations’ of human rights and the creation of new human rights. The difference between civil rights and human rights, natural and positive rights.

Required:

Thérèse Murphy (2013) *Health and Human Rights*, Oxford and Portland, Oregon 23-57

Recommended:

Ackerly, Brooke A. (2008) Universal human rights? In *Universal Human Rights in a World of Difference*. Cambridge: Cambridge University Press, 43–69.

Brownsword, Roger (2007) Ethical Pluralism and the Regulation of Modern Biotechnology. In Francesco Francioni (ed.), *Biotechnologies and International Human Rights*. Oxford: Hart Publishing, 45–70.

Week One (September 23–25, 2014)

The Notion of Biopolitics

In our biologized culture not only medical conditions but also personalities, capacities, and identities in general appear to be explicable in biological terms. Politicians, law making bodies have enacted laws to limit some of the applications that can be seen as a violation of human rights.

Required:

Rose, Nikolas (2007) *The Politics of Life Itself: Biomedicine, Power, and Subjectivity in the Twenty-First Century*. Princeton: Princeton University Press, 41–76.

Esposito, Roberto (2004) *Bíos: Biopolitics and Philosophy*. Minneapolis: University of Minnesota Press, 13–44.

Lemke, Thomas (2011) *Biopolitics: An Advanced Introduction*. New York: New York University Press. 9-32

Recommended:

Murphy, Peter (1995) The Body Politic. In Paul A. Komesaroff (ed.) (1995) *Troubled Bodies*. Durham: Duke University Press, 103–125.

Foucault, Michael (2004) *Security, Territory, Population* (Lectures at the Collège de France, 1977–1978). New York: Picador.

Agamben, Giorgio (1995) Biopolitics and the Rights of Man. In *Homo Sacer. Sovereign Power and Bare Life*. Stanford: Stanford University Press, 126–159.

Week Two (September 30–October 2, 2014)

Eugenic Thinking and Human Rights

Eugenics refers to the field of study that aims to improve the human race through genetic means. The word 'eugenics' comes from a Greek word that means 'wellborn'. Supporters of eugenics seek to change the human race through negative or positive artificial selection, such as the controlled breeding of people who have certain physical characteristics or mental abilities.

Required:

Stern, Alexandra Minna (2005) *Eugenic Nation*. Berkeley: University of California Press, 82–114.

Duster, Troy (2003) *Backdoor to Eugenics*. New York: Routledge, 60–79.

Skinner, D. (2006) Racialized Futures: Biologism and the Changing Politics of Identity. *Social Studies of Science*, 36(3), 459–488.

Recommended:

Wailoo, Keith and Stephen Pemberton (2006) *The Troubled Dream of Genetic Medicine*. Baltimore: Johns Hopkins University Press.

Cases:

Buck v. Bell

A. S. v. Hungary (4/2004)

Week Three (October 7–9, 2014)

Pronatalist Politics

Required:

Sheena Meredith (2005) *Pregnant Women and the Law*. Aldershot: Ashgate, 5–37.

Recommended:

Styhre, Alexander and Rebecka Arman (2013) *Reproductive Medicine and the Life Sciences in the Contemporary Economy*. Burlington, Ashgate

Zielinska, Eleonora (2000) Between Ideology, Politics, and Common Sense: The Discourse of Reproductive Rights in Poland. In Susan Gal and Gail Kligman (eds.), *Reproducing Gender, Politics, Publics, and Everyday Life after Socialism*. Princeton: Princeton University Press, 23–57.

Cases:

Tysic v. Poland [2007] ECtHR (No. 5410/03)

Vo v. France [2004] ECtHR (No. 53924/00)

Case of S.H. and Others v. Austria [2010] (No. 57813/00)

Film Session: (Optional)

4 Months, 3 Weeks & 2 Days (2007) Directed by Cristian Mungiu

Otilia (Anamaria Marinca) and Gabita (Laura Vasiliu) are college roommates. They may live in the wintry squalor of 1987 Romania – in the last days of Communism. Gabita needs to have an abortion – in a rigidly-policed state where that's been illegal for decades. Otilia is going to help her – How could she not? – but neither of them are prepared for what that's ultimately going to cost.

Week Four (October 14–16, 2014)

Population Control

Reproductive Rights and State Interest in Population Control

Controlling how a nation 'reproduces itself', the struggle over population control is a fundamental topic of international relations, political science, and human rights. Concerns for public health, cross-border migration, attitudes towards minorities often resulted ambiguous legal policies that should be evaluated by using methods and theory of human rights.

Required:

Greenhalgh, Susan and Edwin A. Winckler (2005) *Governing China's Population: From Leninist to Neoliberal Biopolitics*. Stanford: Stanford University Press, 212–244.

Jing-Bao Nie (2010) China's Birth Control Program through Feminist Lenses in: Jacky Leach Scully-Laurel E. Baldwin-Ragaven, Petya Fitzpatrick (2010) *Feminist Bioethics at the Center, on the Margins*. Baltimore: Johns Hopkins University Press, 257–278.

Greenhalgh, Susan and Edwin A. Winckler (2005) Problematique: Governmentalization of Population. In *Governing China's Population From Leninist to Neoliberal Biopolitics*. Stanford: Stanford University Press, 19–44.

Recommended:

Connelly, Matthew (2008) *Fatal Misconception*. Cambridge: The Belknap Press of Harvard University Press, 195–236.

Week Five (October 28–30, 2014)

Boundaries to Life

Frontiers of Reproductive Freedoms

Required:

Rothschild, Joan (2005) *The Dream of the Perfect Child*. Bloomington: Indiana University Press, 13–68.

Inhorn, Marcia C. (2007) Reproductive Disruptions and Assisted Reproductive Technologies in the Muslim World. In Marcia C. Inhorn, ed. *Reproductive Disruptions Gender, Technology and Biopolitics in the New Millennium*. New York: Berghahn Books, 183–199.

Recommended:

Rose, Nikolas (2007) *The Politics of Life Itself: Biomedicine, Power, and Subjectivity in the Twenty-First Century*. Princeton: Princeton University Press, 9–40.

Week Six (November 4–6, 2014)
Biopolitics in the Twenty-First Century
Right to Life and Right to Procreate

To what extent ethic of autonomy and equality can be used to explain what is wrong with eugenics. In the age of genomics the use of the word ‘eugenics’ reappears not only among critics but also among those who defend human enhancement. Is liberal eugenics defensible?

Required:

Habermas, Jürgen (2003) *The Future of Human Nature*. Cambridge: Polity Press, 44–66.

Agamben, Giorgio (1995) Potentiality and Law. In *Homo Sacer. Sovereign Power and Bare Life*. Stanford: Stanford University Press, 39–48.

Recommended:

Naam, Ramez (2005) *More than Human: Embracing the Problems of Biological Enhancement*. New York: Broadway Books, 11–41.

Film Session:

Womb (2010) A film written and directed by Benedek Fliegau (Optional)

Week Seven (November 11–13, 2014)
Genetics and Human Rights
Right to Life and Rights to Privacy

The analysis of the mandated genetic screening on Cyprus poses the questions of whether compulsory genetic screening is in harmony with human rights.

Required:

Duster, Troy (2003) The Genetic Screening of “Target” Populations. In *Backdoor to Eugenics*. New York: Routledge, 39–59.

Laurie, Graeme (2002) *Genetic Privacy*. Cambridge: Cambridge University Press, 86–182.

Buchanan, Allan, Dan W. Brock, Norman Daniels, and Daniel Wikler (2000) *From Chance to Choice*. Cambridge: Cambridge University Press, 61–82.

Further Readings:

Wailoo, Keith and Stephen Pemberton (2006) *The Troubled Dream of Genetic Medicine*
Baltimore: John Hopkins University Press, 116–161.

Cases:

S. and Marper v. The United Kingdom (2008)

R.R. v. Poland (2011)

Week Eight (November 18-20, 2014)
Human Rights and Human Tissues
Prohibition of Financial Gain, Privacy

Required:

Lock, Margaret (2002) The Social Life of Human Organs. In *Twice Dead: Organ Transplants and the Reinvention of Death*. Berkeley: University of California Press, 315–341.

Dyer, Phil and Shelagh McGuinness (2011) The Allocation of Organs: The Need for Fairness and Transparency. In Anne-Maree Farrell, David Price, Muireann Quigley, eds. *Organ Shortage Ethics, Law and Pragmatism*. Cambridge: Cambridge University Press, 122–138.

Recommended:

Kaushik Sunder Rajan (2006) *Biocapital: The Constitution of Postgenomic Life* (Promise and Fetish Genomic Facts and Personalized Medicine, or Life Is a Business Plan). Durham: Duke University Press, 138–181.

Sándor, Judit (2012) Bioethics and Basic Rights: Persons, Humans, and the Boundaries of Life. In Michel Rosenfeld and András Sajó, eds. *The Oxford Handbook of Comparative Constitutional Law*. Oxford: Oxford University Press, 1142–1165.

Film Session: Kidney on Ice (2008) Directed by Anja Dalhoff. (Optional)

Documentary about the illegal organ trade from Moldova to Western Europe.

Distribution: Danish Health Ministry, Journeyman Pictures and Danish Doc Production.

Week Nine (November 25-27, 2014)
Gender and Biopolitics
Prohibition of Discrimination on Ground of Sex

Should women's rights be created as a separate category? Can women's rights be separate from cultural constraints? Should formal equality be the goal of women's lobbying for rights protection? The Beijing Conference – Outcome and achievements

Required:

Schumann, Marion (2011) From Social Care to Planning Childbirth in the Federal Republic of Germany, 1950–1975. In Kathrin Braun, ed. *Between Self-Determination and Social Technology. Medicine, Biopolitics and the New Techniques of Procedural Management*. Bielefeld: Transcript Verlag, 31–63.

Roberts, Dorothy E. (1996) Reconstructing the Patient: Starting with Women of Color. In Susan M. Wolf, ed., *Feminism and Bioethics*. Oxford and New York: Oxford University Press, 116–144.

Recommended:

Inhorn, Marcia C. and Frank van Balen, eds. (2002) *Infertility Around the Globe: New Thinking on Childlessness, Gender, and Reproductive Technologies*. Berkeley: University of California Press.

Further readings:

Siddharth, Kara (2009) *Sex Trafficking: Inside the Business of Modern Slavery*. New York: Columbia University Press, 108-128.

Film Session (Optional) Can we see the baby bump please (directed by Surabhi Sharma, 2013) Magic Lantern Movies

Week Ten (December 2–4, 2014)

Governance and Biopolitics

“In the context of biotechnology, globalization adds further complexity to policy-making in an area that is already clouded by moral ambiguity, regulatory uncertainty, and rapid scientific advance. Globalization forces, such as the rapid dissemination of scientific knowledge and the international nature of the biotechnology industry, suggest that the world community should, as much as possible, coordinate regulatory policy. Without such coordination, there is likely to be a degree of corporate forum-shopping and we will be unable to respond rapidly to emerging intellectual property issues or broader ethical, social, and legal concerns.” *Timothy Caulfield*

Required:

Dutfield, Graham (2003) *Intellectual Property Rights and the Life Science Industries: A Twentieth Century History*. Ashgate: Aldershot, 135–173.

Gottweis, Herbert and Alan Petersen (2008) *Biobanks: Governance in Comparative Perspectives*. London: Routledge, 22–39.

Recommended:

Eric Cohen (2006) The Permanent Limits of Modern Science-From Birth to Death, *Social Research* Vol. 73, No. 2 (Summer 2006), 785–804.

Further readings:

Jasanoff, Sheila, ed. (2004) *States of Knowledge*. The Co-Production of Science and Social Order. New York: Routledge, 1–46.

Etzkowitz, Henry (2008) *The Triple Helix*. New York: Routledge 7–27.

Week Eleven (December 9–11, 2014)
Ethics and Policy of Human Enhancement
Autonomy and Freedom of Science

What is the difference between the correction of a physical or mental impairment, and enhancement? How should law react to the new technological possibilities for enhancement? Can enhancement challenge the notion of equality, equal opportunity, disability?

Required:

Sandel, Michael J. (2007) *The Case Against Perfection*. Cambridge: Harvard University Press, 1–44.

Kamm, Frances (2009) What Is and Is Not Wrong with Enhancement? In Julian Savulescu and Nick Bostrom, eds., *Human Enhancement*. Oxford: Oxford University Press, 91–131.

Recommended:

Harris, John (2007) *Enhancing Evolution: The Ethical Case for Making People Better*. Princeton: Princeton University Press, 109–142.

Schwartz Cowan, Ruth (2008) *Heredity and Hope*. Cambridge: Harvard University Press, 41–71.

Cases:

Sentges v. Netherlands [2003] ECtHR (No. 27677/02)
Fim Session: FIXED

Recommended:

Farah, Martha J. (2010) Neurocognitive Enhancement: What Can We Do and What Should We Do? In Martha J. Farah, ed., *Neuroethics*. Cambridge: Massachusetts Institute of Technology, 30–42.

Greely, Henry, et al. (2010) Toward Responsible use of Cognitive-Enhancing Drugs by the Healthy: Policy Suggestions. In Martha J. Farah, ed., *Neuroethics*. Cambridge: Massachusetts Institute of Technology, 73–79.

Conclusions drawn from the class and preparation for the final essay

Appendix

Basic Legal Documents relevant to this course:

- Universal Declaration on Human Genome and Human Rights of November 11, 1997 (available at <http://unesdoc.unesco.org/images/0012/001229/122990eo.pdf>)
- Universal Declaration on Bioethics and Human Rights of October 19, 2005 (available at <http://unesdoc.unesco.org/images/0014/001461/146180E.pdf>)
- Universal Declaration of Human Rights of December 10, 1948
- International Covenant on Civil and Political Rights of December 16, 1966 (Treaty Series, Vol. 999. Entered into force on March 23, 1976)
- International Covenant on Economic, Social and Cultural Rights of December 16, 1966 (Treaty Series, Vol. 993. Entered into force on January 3, 1976)
- International Convention on the Elimination All Forms of Racial discrimination of March 7, 1966
- European Convention on Human Rights and Fundamental Freedoms, November 4, 1950, with Protocols
- Convention on the Prevention and Punishment of the Crime of Genocide of December 9, 1948
- Convention on the Elimination of All Forms of Discrimination Against Women, 1979