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:


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.
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:


Recommended:


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:


Recommended:

Cases:
*Buck v. Bell*

Week Three (October 7–9, 2014)

Pronatalist Politics

Required:

Recommended:


Cases:
*Tysiäc 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)
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:


Recommended:

Week Five (October 28–30, 2014)

Boundaries to Life
Frontiers of Reproductive Freedoms

Required:


Recommended:

**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:**


**Recommended:**


**Fim Session:**

*Womb* (2010) A film written and directed by Benedek Fliegauf (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:**


**Further Readings:**

**Cases:**
*S. and Marper v. The United Kingdom* (2008)
*R.R. v. Poland* (2011)

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**Week Eight (November 18-20, 2014)**

**Human Rights and Human Tissues**

Prohibition of Financial Gain, Privacy

**Required:**


**Recommended:**


**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.

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**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:**


**Recommended:**


**Further readings:**


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

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**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:**


**Recommended:**

Further readings:


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:


Recommended:


Cases:
Sentges v. Netherlands [2003] ECtHR (No. 27677/02)

Recommended:

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 of Human Rights of December 10, 1948
• 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