

CENTRAL EUROPEAN UNIVERSITY  
DEPARTMENT OF GENDER STUDIES AND  
DEPARTMENT OF POLITICAL SCIENCE  
MA. PROGRAM

Winter semester, 2008/2009

Prof. Judit Sándor

Classes Meet: Monday-Wednesday 13:30-15:10  
Office Hours: 3.00 p.m. to 5.00 p.m. on Mondays  
Location: Room No. 806, Nádor utca 9. Bldg.

4 credits

HUMAN RIGHTS AND BIOPOLITICS  
Course Description

This course deals with the status of, and current challenges to, human rights. By analyzing relevant texts and landmark cases, different generations of human rights will be explored. 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. As contemporary human rights encompass increasingly important norms in areas of biopolitics; 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 explores various policy questions posed by contemporary biotechnological developments. 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; 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. Bioethical norms seek to regulate the conduct of scientific research; the access to and safety of technology solutions; the availability and quality of medical services, essential medicines, and other preconditions for health. 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 encourages critical analytical thinking about the role of human rights in shaping and restricting old and new forms of biopolitics
- To analyze various examples and case studies of bio-politics and their impact on human rights

Learning outcomes by the course

- Skills to analyze and to understand human rights problems raised by new challenges
- 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
- 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 (20%); and a final essay (80 %). A 13 to 15-page research paper on a topic to be chosen after consultation with the instructor (80% of the grade). The paper is due, April 5. 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 Fancioni (2007) *Biotechnologies and International Human Rights*, Hart Publishing, Oxford

#### SCHEDULE

##### *Week Zero (January)*

##### Introduction 1: 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:*

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

Albert Somit, (1972) *Biopolitics British Journal of Political Science*, Vol. 2, No. 2 (Apr., 1972), pp. 209-238

##### *Recommended:*

Hart, H.L.A. (1984) Are there any natural rights? In Jeremy Waldron (ed.) *The Theory of Rights*. Oxford: Oxford University Press, pp. 77–90.

Dworkin, Ronald (1984) Rights and Trumps. In Jeremy Waldron (ed.) *The Theory of Rights*. Oxford: Oxford University Press, pp. 153–167.

*Week One (January 12-14)*  
Introduction 2: 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) *Bios: Biopolitics and Philosophy*. Minneapolis: University of Minnesota Press. 13-44

*Recommended:*

Jack Donnelly (1999) The Social construction of international human rights in: Tim Dunne and Nicholas J. Wheeler (eds) *Human Rights in Global Politics*, Cambridge, Cambridge University Press, 71-102

*Week Two (January 19-21)*  
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, pp. 60–79.

*Cases:*

*Buck v. Bell*

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

*Film Session:*

*Body and Soul (short documentary)*

Body and Soul, the new documentary produced by the Center for Reproductive Rights and made by Sandino Film, captures the testimonies of Romani women in Slovakia who have been sterilized against their will, and the attitudes of Slovakian health care personnel on this and related issues. This documentary supplements the Center's and Poradna's human rights report *Body and Soul: Forced Sterilization and Other Assaults on Roma reproductive Freedom in Slovakia* which was launched in Bratislava in January 2003

*Week Three (January 26-28)*  
Pronatalist politics

*Required:*

Sheena Meredith (2005) *Pregnant Woman and the Law*, Aldershot, Ashgate 5-37

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

*Recommended*

Kligman, Gail (1998) *The Politics of Duplicity: Controlling Reproduction in Ceausescu's Romania*. Berkeley: University of California Press.

*Cases:*

*Tysi c v. Poland* [2007] ECtHR (no. 5410/03): (2007)

*Vo v. France* [2004] E.H.R.R.12.

*Film Session:*

*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 (February 2-4)*

Population control

Reproductive rights and State Interest in Population Control

Controlling how a national reproduces itself, the struggles 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, pp. 212–244.

Marcia C. Inhorn-Frank van Balen (eds) (2002) *Infertility Around the Globe* 101-118

*Texts: China: Law on Population and Family Planning, 2002.*

[http://www.un.org/womenwatch/daw/cedaw/cedaw36/cc/CHINA\\_advance%20unedited.pdf](http://www.un.org/womenwatch/daw/cedaw/cedaw36/cc/CHINA_advance%20unedited.pdf)

*Recommended:*

Matthew Connelly (2008) *Fatal Misconception* The Belknap Press of Harvard University Press  
Cambridge 195- 236

*Week Five (February 9-11)*

Boundaries to Life

-Frontiers of reproductive freedoms-

*Required:*

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

*Recommended:*

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

Recommended:

*Week Six (February 16-18)*  
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, pp. 44–66.  
Rose, Nikolas (2007) *The Politics of Life Itself: Biomedicine, Power, and Subjectivity in the Twenty-First Century*. Princeton: Princeton University Press, pp. 41–76.

*Recommended:*

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

*Week Seven (February 23-25)*  
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 the human rights.

*Required:*

Ruth Schwarz Cowan (2008) *Heredity and Hope: The Case for Genetic Screening*, Harvard University Press, London 2008 pp. 181-222.  
Troy Duster (2003) *Backdoor to Eugenics* Routledge New York pp. 39-94

Case:

*Banks v. United States, 490 F.3d 1178 (10th Cir. Okla. 2007)*

*Week Eight (March 2-4)*  
Human Rights and Tissue/Stem Cell Policy  
-Privacy and Biobanks-

*Required:*

Bellinger, Michael (2002) Constitutional Right to Therapeutic Cloning, *Michigan State Journal of Medicine and Law*, 7(Fall 2002): 37.  
Herbert Gottweis, Alan Petersen (2008) *Biobanks: Governance in comparative perspectives* Routledge, London pp. 22-39

*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)* Duke University Press Durham, 138-181

*Week Nine (March 9-11)*  
Women's Rights: Sex Ratios and Fertility  
-Prohibition of discrimination on the 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:*

- Fraser, Arvonne S. and Irene Tinker, eds. (2004) *Developing Power: How Women Transformed International Development*. New York: Feminist Press at the City University of New York.
- Winslow, Anne (1995) *Women, Politics, and the United Nations*. Westport, Conn.: Greenwood Press.
- Bunch, Charlotte (1982) Women's Rights as Human Rights: Toward a Revision of Human Rights, *Human Rights Quarterly* 12: 486.
- Pietilä, Hilikka and Jeanne Vickers (1994) *Making Women Matter: The Role of the United Nations*. London: Zed Books, (1996: 3rd edition with a new introduction).

Basic documents to this topic:

Convention to the Elimination of All Forms of Discrimination against Women.

United Nations General Assembly Resolution 48/104 Declaration on the Elimination of Violence Against Women.

*Week Ten (March 16-18)*  
Minority and Biopolitics  
-Anti-discrimination-

*Required*

Paul Brest (1976) "Foreword: in Defence of the Anti-discrimination Principle in: Harvard Law Review 90

*Recommended*

- Klimova-Alexander, Ilona (2005) *The Romani Voice in World Politics: The United Nations and Non-State Actors*. Aldershot, UK and Burlington, VT: Ashgate.
- Phillips, Alan and Allan Rosas, eds. (1995) *Universal Minority Rights*. Turku/Abo: Minority Rights Group.
- Richard Falk: (1999) The Challenge of genocide and genocidal politics in an era of globalisation In: Tim Dunne and Nicholas J. Wheeler (eds) *Human Rights in Global Politics*, Cambridge University Press, 177-194

*Cases:*

Roma DNA fingerprinting in Italy  
Incident Report, European Union Agency for Fundamental Rights, 2008

*Week Eleven (March 23-25)*  
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, pp. 1–44.

Recommended:

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

Harris, John (1992) *Wonderwoman and Superman: The Ethics of Human Biotechnology*. Oxford: Oxford University Press, pp. 140–161.

*Week Twelve (March 30)*  
Conclusions

Case presentations and overview

Appendix

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