

CENTRAL EUROPEAN UNIVERSITY
DEPARTMENT OF POLITICAL SCIENCE
MA. PROGRAM

Winter semester, 2009/2010

Prof. Judit Sándor

Classes Meet: Mondays 13:30-15:10
Office Hours: 15:30 p.m. to 17:30 p.m. on Mondays-Wednesday
Location: Room No. 806, Nádor utca 9. Bldg. Faculty Tower
Cross listed with Gender Studies
2 credits

HUMAN RIGHTS AND BIOPOLITICS
Course Description

Contemporary human rights encompass increasingly important norms in the fields 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 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; 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 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 11, 2010)

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

Week One (January 18, 2010)

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) *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 25, 2010)

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.

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 (February 1, 2010)

Pronatalist politics

Required:

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

Recommended:

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. 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 8, 2010)

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, 212–244.

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

Recommended:

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

Week Five (February 15, 2010)

Boundaries to Life

-Frontiers of reproductive freedoms-

Required:

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

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 (February 22, 2010)
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.

Recommended:

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

Week Seven (March 1, 2010)
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:

Troy Duster (2003) *The Genetic Screening of "Target" Populations in: Backdoor to Eugenics* Routledge, New York 39-59

Recommended

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

Case:

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

Case of *S. and Marper v. The United Kingdom* (2008)

Week Eight (March 8, 2010)
Human Rights and Tissue/Stem Cell Policy
-Privacy and Biobanks-

Required:

Herbert Gottweis, Alan Petersen (2008) *Biobanks: Governance in comparative perspectives* Routledge, London 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 15, 2010)

Gender and Biopolitics

-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:

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

Recommended:

Marcia C. Inhorn, Frank van Balen (ed) 2002 *Infertility around the Globe: New thinking on childlessness, gender, and reproductive technologies*, University of California Press, Berkeley

Week Ten (March 22, 2010)

Governance and Biopolitics

Required

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

Recommended

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

Week Eleven (March 29, 2010)

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.

Frances Kamm (2009) *What is and is Not Wrong with Enhancement?* Oxford University Press, Oxford in Julian Savulescu, Nick Bostrom eds. (2009) *Human Enhancement* 91-131

Recommended:

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

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