

CENTRAL EUROPEAN UNIVERSITY  
DEPARTMENT OF POLITICAL SCIENCE  
MA PROGRAM  
Fall Semester, 2010/2011

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

Prof. Judit Sándor

Classes Meet: Mondays 1:30–3:10 p.m.

Office Hours: 3:30–5:30 p.m. on Mondays and Wednesdays

Location: Room No. 806, Faculty Tower, Nádor utca 9. Bldg.

2 credits

#### Course Description

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 increasingly encompass 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 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% of the grade) and a final essay – 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 on December 10, 2010. 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*. Oxford: Hart Publishing.

## Schedule

### *Week Zero (September 16, 2010)*

#### 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:*

Roger Brownsword (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 20, 2010)*

#### 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) *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 (September 27, 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 (October 4, 2010)*

Pronatalist Politics

*Required:*

Sheena Meredith (2005) *Pregnant Women 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 and Gail Kligman (eds.), *Reproducing Gender, Politics, Publics, and Everyday Life after Socialism*. Princeton University Press, 23–57.

*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 (October 11, 2010)*

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.

Susan Greenhalgh, 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:*

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

*Week Five (October 18, 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 (October 25, 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 (November 8, 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 human rights.

*Required:*

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

*Recommended:*

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

*Cases:*

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

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

*Week Eight (November 15, 2010)*

Human Rights and Human Tissues  
Prohibition of Financial Gain, Privacy

*Required:*

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

*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.

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

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

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

*Week Nine (November 22, 2010)*

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:*

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

*Recommended:*

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

*Film: Orgasm, Inc.* (2009) Director: Liz Canner.

The documentary film by award-winning director Liz Canner uncovers the race to develop a drug to treat so called Female Sexual Dysfunction (FSD) in women. The film also offers a behind-the-scenes look at sex devices, porn, genital grooming and vaginal surgery, as well as personal accounts from women on the subject of sexual pleasure. Astrea Media.

*Week Ten (November 29, 2010)*  
Governance and Biopolitics

*Required:*

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

*Week Eleven (December 6, 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, 1–44.  
Frances Kamm (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.

*Week Twelve (December 13, 2010)*  
Conclusions

Case presentations and overview

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