

The Heller School for Social Policy and Management
Brandeis University
Sustainable International Development Graduate Program

[HS 270-f]

Seminar in Health and Human Rights

August 30, 2006

Heller Room 334
Thursdays 2:10 – 5:00 PM

Prof. Maria Green

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University notices:

1. If you are a student with a **documented disability** on record at Brandeis University and wish to have a reasonable accommodation made for you in this class, please see me immediately.

2. You are expected to be honest in all of your academic work. The University policy on **academic honesty** is distributed annually as section 5 of the [Rights and Responsibilities](#) handbook. Instances of alleged dishonesty are subject to possible judicial action. Potential sanctions include failure in the course and suspension from the University. If you have any questions about my expectations, please ask.

Academic integrity is central to the mission of educational excellence at Brandeis University. Each student is expected to turn in work completed independently, except when assignments specifically authorize collaborative effort. It is not acceptable to use the words or ideas of another person – be it a world-class philosopher or your roommate – without proper acknowledgement of that source. This means that you must use footnotes and quotation marks to indicate the source of any phrases, sentences, paragraphs or ideas found in published volumes, on the internet, or created by another student. If you are in doubt about the instructions for any assignment in this course, you must ask for clarification.

This syllabus is subject to change. When in doubt, please ask me.

Course Description

From the World Health Organization to national professional medical associations, organizations working in health practice and policy are increasingly interested in the overlaps between their own work and international human rights standards. The overlaps range from concerns about violations of rights by health professionals to the meaning and effective implementation of the internationally recognized right to the “highest attainable standard of health.”

This course is intended for graduate students with an interest in health practice or policy who wish to understand how a rights-based approach intersects with

those fields, and in particular to think about the implications of the rights standards for policy-makers, medical professionals, health-related industries, and patients. It addresses the following questions:

- What are the international human rights standards that relate to health?
- What does it mean, in practice, to declare a “right to health,” and how is such a right to be implemented?
- What are the obligations of governments and medical professionals with regard to human rights and health?
- What role do civil and political rights like participation, freedom of speech, access to information, and non-discrimination play in health policy-making and policy implementation?

The course is designed as a seminar, with a focus on reading, discussion and student research rather than on lectures. Substantive examples addressing the issues of access to health care, development of and access to medicines, sexual and reproductive rights, medical ethics, clinical trials, and access to underlying determinants of health such as food and clean water will be drawn from both developed and developing countries.

Guest speakers from the Heller faculty will join the class on occasion, schedules permitting. Guests this year are expected to include Professor Goodman, Professor Klerman, Professor Nandakumar, and Professor Bhalotra.

Core Competency Statement

This course teaches concepts and skills that have been identified as core competencies for a degree in SID:

- How international standards apply to national policies, from both a legal and practical perspective
- How a “rights-based approach” can be applied to both national and international policies and practices

Sustainable Development Statement

This course relates to the field of sustainable development as follows:

It looks at health, a universally important issue, from the perspective of both the developed and the developing worlds.

Gender Perspective Statement

This course incorporates a perspective on gender as follows:

- Special attention is paid to issues, such as reproductive health and empowerment to make health-related decisions, that tend to be of particular relevance to women;

- The notions of non-discrimination and equality with regard to gender are discussed in depth.

Race and Ethnicity Statement

This course recognizes the impact of race and ethnicity:

Where applicable, on issues of discrimination and disempowerment and on decision-making at international, national, and individual levels.

Readings

The required readings for this course are drawn from three sources:

1. *Perspectives on Health and Human Rights*, eds. Sofia Gruskin, Michael A. Grodin, George J. Anna, and Stephen P. Marks, Routledge, 2005. Copies are available for purchase from the Brandeis bookstore, and a copy will be placed on reserve in both the SID library and the main Brandeis library. In the readings below this is listed as “*Perspectives.*”
2. Course packet. A copy of the course packet will be available for purchase in the SID library.
3. Online resources. Occasionally, the syllabus will link to an online source (an electronic version of the syllabus, with live links, is available on the class webct site). Please let me know if you have any trouble accessing any of the online sources.

Additional readings may occasionally be distributed in class.

Course requirements

There are different requirements for students from the different degree programs:

MA and MS students:

Will be expected to write one short (2-3 page paper), do two take-home exercises, and write one final paper (6-10 pages) on a topic to be chosen by the student in consultation with the instructor.

Ph.D. students:

Will be expected to draft and present a substantial (15-20 page) seminar paper on a topic of their choice. Students will begin research on their seminar papers during the first three weeks of class and turn in a seminar paper proposal early in the module; they will present their findings (or work in progress) during the later four weeks.

Other requirements for all students include:

- Attendance at all sessions; prompt arrival.
- Preparation of all readings.
- Participation in class discussions and any small group work.
- Timely submission/presentation of assignments.
- Helpfulness to other students.

Your grade will be calculated as follows:

MA or MS students:

1. Short paper: 20 %
2. Exercise 1: 20 %
3. Exercise 2: 20 %
4. Individual paper: 35%
5. Participation: 5 %

For those who wish it, whichever of the three short assignments (paper and 2 exercises) receives the lowest grade will be counted as 10% for the final grade, and the other 2 as 25%.

Ph.D. students:

Final seminar paper: 100 %

Rescheduled class day

Note that there will be no class on September 14, when I have to be away at a conference. We will make up that class with one, and possibly two, lunchtime sessions, to be scheduled after the start of the class.

You will receive early feedback on your performance

The short paper (MA/MS) or the seminar paper proposal (Ph.D.) will be due at the second class session and returned before the 3rd week of class.

My make-up policy for late papers or missed exams

Assignments are expected to be turned in on time. If you are ill or have other exceptional circumstances, please contact me before the assignment is due. Late papers that are submitted without advance permission are docked a half grade for each day that they are late.

Class Sessions

Class 1: Basic concepts August 31

- Defining human rights
- Defining health
- Introduction to international economic, social and cultural rights
- Introduction to international civil and political rights
- Implications of taking a rights-based approach to a complex social issue:
 - Rights-based vs needs-based approaches
 - Democracy issues
 - Empowerment issues
- Roles of national government and international community
- Governmental obligations: respect, protect, fulfil
- Process rights: transparency, access to information, freedom of expression, non-discrimination

Readings:

1. Paul Farmer, *Pathologies of Power: Health, Human Rights, and the New War on the Poor*, University of California Press, 2003, pp. 29 - 49
2. Brigit Toebes, *The Right to Health as a Human Right in International Law*, Intersentia Press, 1999, pp.7-26 (course packet)
3. WHO, “25 Questions and Answers on Health and Human Rights”, WHO Health and Human Rights Series No. 1, 2002 (course packet)

Optional additional reading:

4. Jeremy Waldron. “Rights and Needs: The Myth of Disjunction,” in *Legal Rights: Historical and Philosophical Perspectives*. Austin Sarat and Thomas R. Kearns, eds. University of Michigan Press, 1996, pp. 87-109 (course packet)
5. Martti Koskenniemi, “The Effect of Rights on Political Culture” in *The EU and Human Rights*,” Philip Alston, ed, Oxford University Press, 1999, pp.99-117 (course packet)

Class 2: The Right to Health September 7

- How to read a human rights treaty
- “Core content” of the right to health
- Right to health care
- Privatization and insurance (brief discussion)

- Case study: access to health care under the South African Constitution
- Who is protected? Special issues around migrants and refugees
- Health, development, and human rights: the Millennium Development Goals and the right to health

Paper 1 due

Readings:

1. *Perspectives* Chapter 1 (Gruskin and Tarantola, “Health and Human Rights”) pp. 3-57.
2. *Skim*: Audrey Chapman, “Core Obligations Related to the Right to Health,” in *Core Obligations: Building a Framework for Economic, Social and Cultural Rights*, Audrey Chapman and Sage Russell, eds, Intersentia Press, 2002 pp.185-216 (course packet)
3. *Skim* Declaration of Alma-Ata (course packet appendix)
4. *Skim* General Comment 14 (“The Right to the Highest Attainable Standard of Health”) of the UN Committee on Economic, Social and Cultural Rights, UN Doc. No. E/C.12/2000/4, 11 August 2000 (course packet appendix)
5. *Skim* International Guidelines on HIV/AIDS and Human Rights U.N.C.H.R. res. 1997/33, U.N. Doc. E/CN.4/1997/150 (1997 (course packet appendix)
6. *Perspectives* Chapter 23 (Annas, “The Right to Health and the Nevirapine Case in South Africa”), pp. 497 - 505
7. M. Gregg Bloche, “Is Privatization of Health Care a Human Rights Problem?” in *Privatisation and Human Rights in the Age of Globalization*, Koen De Feyter and Felipe Gómez Isa, eds, Intersentia, 2005, pp.207-228 (course packet)
8. *Chaoulli and Zeliotis v. Quebec (Attorney General)*, 2005 SCC 35 (Canada – Quebec private health care case; to be distributed)

Optional:

9. Thomas E. Perez, “The Civil Rights Dimension of Racial and Ethnic Disparities in Health” pp. 626-635. (to be distributed)

Sept 14 No Class

- This session to be made up with a lunch-time session later in the module
- Read ahead to: Health Rights of Women Assessment Instrument, by Saskia Bakker and Hansje Plagman, HOM, 2006. Note that although this focuses on women, it provides useful tools for all aspects of health policy. (Online at <http://www.hom.nl/publicaties/HeRWAI%20def05%20totaal.pdf>)
- Exercise 1 due

Class 3: Human Rights and Medical Professionals Sept 21

- Medical ethics and human rights
 - Torture and medical professionals
 - Medical experimentation
 - Clinical trials
- Issues around the regulation of health professionals
- Freedom of expression of health professionals
- The role of health professionals in treating victims of rights abuses
- The role of medical professionals in monitoring the right to health
- Balancing individual rights and public health

Readings:

1. British Medical Association, *The Medical Profession and Human Rights: Handbook for a Changing Agenda*, BMA and Zed Books, 2001, Introduction, pp. xix –xxxiii (course packet)
2. Richard Pierre Claude, *Science in the Service of Human Rights*, University of Philadelphia Press, 2002, pp.84-88, 92-99, and 136-145.
3. British Medical Association, *The Medical Profession and Human Rights: Handbook for a Changing Agenda*, BMA and Zed Books, 2001, chapter 9 (“Research and Experimentation on Humans”), skim pp. 205-224, and read pp.224-236 (course packet)
4. Brigit Toebes, *The Right to Health as a Human Right in International Law*, Intersentia Press, 1999, “The Possibility of Collision of the Right to Health with Other Human Rights” pp. 273-275
5. David Fiddler, *Global Health Jurisprudence: Materials and Analysis of International Law and Public Health*, Transnational Publications, 2000, pp. 324-347. (course packet)

Class 4: Sexual and Reproductive Health Sept 28

Right to information as a component of the right to health

- Overview of international norms on sexual and reproductive health
- Gender and health rights
- Children and health rights
- Right to give and receive information as a component of the right to health

Readings:

1. *Glance at* WHO website on Gender and Reproductive Rights:
<http://www.who.int/reproductive-health/gender/index.html>
2. *Glance at* (to get a sense of the kinds of issues being written about) the table of contents and article abstracts for *Health and Human Rights: An International Journal*, Vol. 7, No. 2, Special Focus: Sexuality, Human Rights, and Health (online at <http://www.hsph.harvard.edu/fxbcenter/V4N2.htm>)
3. *Learning To Dance: Advancing Women's Reproductive Health And Well-Being From The Perspectives Of Public Health And Human Rights*, edited by Alicia Ely Yamin, Harvard University François-Xavier Bagnoud Center for Health and Human Rights, distributed by Harvard University Press, 2005, pp.3-16 (course packet)
4. Rebecca Cook, *Safe Motherhood Through Human Rights* WHO (2001) available online at http://www.who.int/reproductive-health/publications/RHR_01_5_advancing_safe_motherhood/ pp.45-61. (course packet)
5. Sandra Coliver, "Civil & Political Rights And The Right To Nondiscrimination: The Right To Information Necessary For Reproductive Health And Choice Under International Law" *American University Law Review*, spring, 1995 (44 Am. U.L. Rev. 1279) (course packet)
6. UN Human Rights Committee, Decision in *Karen Llantoy v. Peru*, November 2005 (to be distributed)

Optional:

7. *Perspectives* Chapter 12 (Shepard: “The ‘Double Discourse’ on Sexual and Reproductive Rights in Latin American: The Chasm between Public Policy and Private Actions”) pp. 247-270.

Class 5: Advocacy for Health Rights Session, date to be determined

Lunchtime

Readings:

1. *Health Rights of Women Assessment Instrument*, by Saskia Bakker and Hansje Plagman, HOM, 2006. (Online at <http://www.hom.nl/publicaties/HeRWAI%20def05%20totaal.pdf>)

Class 6: Access to Essential Medicines October 5 Transparency as a component of the right to health

- Key concepts in intellectual property rights and development of/access to new pharmaceuticals
- The TRIPS Agreement and access to medicines in the developing world, including pricing issues
- Transparency as a component of the right to health

Readings

1. Paul Hunt, “Neglected Diseases, Social Justice And Human Rights: Some Preliminary Observations,” WHO Health and Human Rights Working Paper Series No 4, December 2003 (course packet)
2. *Perspectives*, chapters 9 (Cullet, “Patents and Medicines: The Relationship Between TRIPS and the Human Right to Health”) and 10 (‘t Hoen, “TRIPS, Pharmaceuticals Patents, and Access to Essential Medicines: A long Way from Seattle to Doha”), pp. 179-222.
3. Skim: Millennium Project Task Force on HIV/AIDS, Malaria, TB, and Access to Essential Medicines, Working Group on Access to Essential Medicines, ”Prescription for healthy development: increasing access to medicines” (available online at http://www.unmillenniumproject.org/reports/tf_essentialmedecines.htm)
4. Jonathan Klaaren, “A Second Look at the South African Human Rights Comission, Access to Information, and the Promotion of Socio-Economic Rights,” *Human Rights Quarterly* 27 (2005), pp. 539-561 (course packet)

Optional:

5. Frederick. M. Abbott, "The 'Rule of Reason' and the Right to Health: Integrating Human Rights and Competition Principles in the Context of TRIPS" in *Human Rights and International Trade*, ed. T. Cottier, J. Pauwelyn, and E. Burgi Bonanomi, Oxford University Press, 2005, pp. 279-300. (course packet)

Exercise 2 due

Class 7: Underlying Determinants of Health Oct. 12

- Access to clean water and adequate sanitation
- Environmental health
- International health precautions from a human rights perspective
- Access to adequate food
- Access to adequate education in the context of the right to health
- Regulation of health in the workplace

Readings:

1. *Human Rights, Health, and Poverty Reduction Strategies*, WHO Health and Human Rights Publications Series, Issue no. 5, April 2005, pp.13-25 (available online at <http://www.who.int/hhr/news/HRHPRS.pdf>)
2. Jamie Bartram, Kristen Lewis, Roberto Lenton, Albert Wright, "Focusing on improved water and sanitation for health", *The Lancet*, 26 February 2005, available online at <http://www.unmillenniumproject.org/policy/spotlight.htm>
3. David Fiddler, *Global Health Jurisprudence: Materials and Analysis of International Law and Public Health*, Transnational Publications, 2000, pp. 385-386, 395-397, and 421-423 (course packet)
4. Dinah Shelton, "Human Rights, Health & Environmental Protection: Linkages in Law & Practice", WHO Health and Human Rights Working Papers no. 1, 2002 (course packet)
5. Anton Kok, "Privatization and the Right to Access to Water" in *Privatisation and Human Rights in the Age of Globalization*, Koen De Feyter and Felipe Gómez Isa, eds, Intersentia, 2005, pp.259-287 (course packet)

Final paper due