

PLCY 570: Health and Human Rights

University of North Carolina at Chapel Hill

Fall 2013

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COURSE DESCRIPTION

Human rights are inextricably linked to the achievement of public health policy goals. This course provides an introduction to the relationship between health policy and human rights. As a survey course, it ranges broadly over theoretical approaches and concrete issues relating to the realization of human rights in the context of domestic and international public health policies. For public policy, public health, and law students seeking to gain an understanding of human rights, this course will complement other rights-based courses at UNC, giving students a foundation for future studies at the intersection of human rights and public health.

The focus of this course will be on rights-based approaches to health, applying a human rights perspective to selected public health policies, programs, and interventions. Specifically, this course will teach students how to apply a formalistic human rights framework to a wide range of critical issues in public health, exploring the role of human rights as both a safeguard against harm and a catalyst for health promotion. Upon completion, students will have acquired an understanding of the social, economic, cultural, legal, and political processes by which human rights inform public health objectives.

COURSE LEARNING OBJECTIVES

Students who successfully complete this course will be able to:

- Understand international legal documents and apply these texts to domestic and international health policies.
 - Distinguish the normative framework of international human rights standards from nonformalistic commitments to social justice, bioethics, and morality.
 - Describe the differential synergies between health and either positive (economic, social, and cultural) or negative (civil and political) human rights obligations.
- Identify the means through which human rights violations harm public health.
- Evaluate the policy mechanisms by which human rights can inform public health initiatives.
 - Identify ways in which human rights are used to promote health.
 - Identify ways in which human rights serve to protect individuals from harm.
- Analyze instances in which conflict can arise between public health priorities and human rights protections.

COURSE STRUCTURE

This course is divided into four major units with issues grouped so as to typify those issues most pressing in the health and human rights literature:

Unit 1:	Issues in Human Rights, Impacts on Health
Unit 2:	Health as a Human Right
Unit 3:	Applications of Human Rights to Health Promotion and Disease Prevention
Unit 4:	Ethics, Human Rights, and Health Professionals: Ethical Obligations of Health Professionals in the Face of Human Rights Violations

ASSIGNMENTS

Student grades will be based on:

Three (3) Position Papers	30%
Final Paper	40%
Participation	20%
Reading Quizzes	10%

Position Papers

The position papers should provide a succinct (<500 word) analysis and/or critique of a specific aspect of the readings. The three (3) position papers will be due one (1) week after the conclusion of each respective unit. (Note: There will be no position paper due at the conclusion of the fourth unit.) The position papers should not be summaries of the readings but should instead offer thoughtful reactions to several of the readings in that unit.

Final Paper

The final research paper is a substantial piece of writing relying heavily on secondary source material (and primary sources to the degree necessary). The paper should make use of both course and outside readings and investigate an issue of interest to the student.

<u>Undergraduate Students</u>	<u>Graduate Students</u>
• Abstract (250 words)	• Abstract (250 words)
• 2,500-3,000 words	• 3,000-3,500 words

Participation

The course is a seminar and will not rely entirely on professorial lecture. Consequently, attendance and participation are mandatory. Students should come to class having read all of the required readings, prepared to raise provocative questions for discussion.

As half of the student's participation grade (10% of the total grade), each student will be responsible for presenting a written and oral summary of a week's readings. Summary assignments will be selected during the second class.

Reading Quizzes

To assure that students are reading and understanding the course material, there will be periodic reading quizzes at the start of each week. These quizzes should take no more than four minutes and are intended to assure basic comprehension of the required readings and preparation for class discussion.

UNC HONOR CODE

The UNC honor code (<http://honor.unc.edu>) will be in effect in this class. If you have questions about appropriate behavior regarding the honor code, check with the instructor.

The principles of academic honesty, integrity, and responsible citizenship govern the performance of all academic work and student conduct at the University as they have during the long life of this institution. Your acceptance of enrollment in the University presupposes a commitment to the principles embodied in the Code of Student Conduct and a respect for this most significant Carolina tradition. Your reward is in the practice of these principles.

Your participation in this course comes with the expectation that your work will be completed in full observance of the Honor Code. Academic dishonesty in any form is unacceptable, because any breach in academic integrity, however small, strikes destructively at the University's life and work.

If you have any questions about your responsibility or the responsibility of faculty members under the Honor Code, please consult with someone in either the Office of the Student Attorney General (966 4084) or the Office of the Dean of Students (966 4042).

Read "The Instrument of Student Judicial Governance" (<http://instrument.unc.edu>).

SEMINAR SCHEDULE

Unit 1: Issues in Human Rights, Impacts on Health

Week 1: Globalization of Public Health Policy: Employing International Law for Health

Required Readings

- Linda Fried et al., Global Health Is Public Health, 375 LANCET 535 (2010).
- Sofia Gruskin, Edward J Mills, & Daniel Tarantola, History, Principles, and Practice of Health and Human Rights, 370 LANCET 449 (2007).
- Lawrence O. Gostin & Allyn L. Taylor, Global Health Law: A Definition and Grand Challenges, 1 PUB HEALTH ETHICS 53 (2008).
- Nicole A. Szlezák et al., The Global Health System: Actors, Norms, and Expectations in Transition, 7 PLOS MED (2010).

Optional Readings

- Allyn L. Taylor, Governing the Globalization of Public Health, 32 J.L. MED. & ETHICS 500 (2004).
- David P. Fidler, International Law and Global Public Health, 48 U. KAN. L. REV. 1 (1999).
- Laurie Garrett, The Return of Infectious Disease, 74 FOREIGN AFF. 66 (1996).

Week 2: Human Rights vs. Social Justice as Tools for Health Policy

Required Readings

- JACK DONNELLY, UNIVERSAL HUMAN RIGHTS IN THEORY AND PRACTICE 7-21 (2d ed. 2001).
- Jonathan M. Mann, Health and Human Rights: If Not Now, When?, 2 HEALTH & HUM RIGHTS 113 (1997) (excerpts).
- Gerald M. Oppenheimer et al., Health and Human Rights: Old Wine in New Bottles, 30 J. L., MED. & ETHICS 522 (2002).
- Paul Farmer, Pathologies of Power: Rethinking Health and Human Rights, 89 AM. J. PUB. HEALTH 1486 (1999).
- Aryeh Neier, Misunderstanding Our Mission (2013) vs. Ignacio Saiz & Alicia Ely Yamin, Human Rights and Social Justice: The In(di)visible Link (2013).

Optional Readings

- Sofia Gruskin & Daniel Tarantola, Health and Human Rights, in OXFORD TEXTBOOK OF PUBLIC HEALTH 311 (Roger Detels et al. eds., 4th ed. 2002).
- Leslie London, What Is a Human-Rights Based Approach to Health and Does It Matter?, 10 HEALTH & HUMAN RIGHTS (2008).
- Louis Henkin, The Age of Rights, in HUMAN RIGHTS: IDEA AND IDEOLOGY (Louis Henkin et al. eds., 1999).
- Alicia Yamin, Will We Take Suffering Seriously? Reflections on What Applying a Human Rights Framework to Health Means and Why We Should Care, 10 HEALTH & HUM RIGHTS 45 (2008).

Week 3: Positive vs. Negative Rights?

Required Readings

- LOUIS HENKIN ET AL., HUMAN RIGHTS 320-30 (1999).
- Benjamin Mason Meier, The World Health Organization, Human Rights, and the Failure to Achieve Health for All, in GLOBAL HEALTH AND HUMAN RIGHTS (John Harrington & Maria Stuttaford eds., 2010).
- Stephen P. Marks, The Past and Future of the Separation of Human Rights into Categories, 24 MD. J. INT'L L. 209 (2009).
- Kenneth Roth, Defending Economic, Social and Cultural Rights: Practical Issues Faced by an International Human Rights Organization, 26 HUMAN RIGHTS Q 63 (2004).
- Michael H. Posner, The Four Freedoms Turn 70: Embracing an Integrated Approach to Human Rights, 105 PROCEEDINGS OF THE ANNUAL MEETING OF THE AMERICAN SOCIETY OF INTERNATIONAL LAW 27 (2011).

Optional Readings

- United Nations, Universal Declaration of Human Rights (1948).
- HENRY SHUE, BASIC RIGHTS: SUBSISTENCE, AFFLUENCE, AND U.S. FOREIGN POLICY 35-40 (1980).
- Henry J. Steiner & Philip Alston, Comment on Historic Origins of Economic, Social and Cultural Rights, in INTERNATIONAL HUMAN RIGHTS IN CONTEXT 256 (Henry J. Steiner & Phillip Alston eds. 1996).
- HENRY J. STEINER & PHILIP ALSTON, INTERNATIONAL HUMAN RIGHTS IN CONTEXT 138-41, 244-47 (2d ed. 2000).
- Peter D. Jacobson & Soheil Soliman, Co-opting the Health and Human Rights Movement, 30 J.L. MED & ETHICS 705 (2002).

Week 4: Cultural Relativism in Health

Required Readings

- Dianne Otto, Rethinking the "Universality" of Human Rights Law, 29 COLUM. HUM. RTS. L. REV. 1 (1997).
- Sandra D. Lane and Robert A. Rubinstein, Judging the Other: Responding to Traditional Female Genital Surgeries, 26 HASTINGS CENTER REP. 31 (1996).
- Bettina Shell-Duncan, From Health to Human Rights: Female Genital Cutting and the Politics of Intervention, 110 AMERICAN ANTHROPOLOGIST 225 (2008).
- Chi-Chi Undie & Chimaraoke O Izugbara, Unpacking Rights in Indigenous African Societies: Indigenous Culture and the Question of Sexual and Reproductive Rights in Africa, 11 BMC INT'L HEALTH & HUM RTS (2011).

Optional Readings

- Fernando Teson, International Human Rights and Cultural Relativity, 25 VA. J. INT'L L. 869 (1985).

- Ann-Belinda S. Preis, Human Rights as Cultural Practice: An Anthropological Critique, 18 HUM. RTS. Q. 286 (1996).
- M. Susser, Health as a Human Right: An Epidemiologist's Perspective on the Public Health, 83 AM. J. PUB. HEALTH 418 (1993).
- UNICEF, Female Genital Mutilation/Cutting: A Statistical Overview and Exploration of the Dynamics of Change (2013).

Unit 2: Health as a Human Right

Week 5: Is There a Human Right to Health? Is There a Human Right to Health Care?

**** First Position Paper Due***

Required Readings

- Eibe Riedel, The Human Right to Health: Conceptual Foundations, in REALIZING THE RIGHT TO HEALTH 21 (Andrew Clapham & Mary Robinson eds. 2009).
- Katherine Gorove, Shifting Norms in International Health Law, 98 AM. SOC'Y INT'L L. PROC. 18 (2004).
- Benjamin Mason Meier & Larisa M. Mori, *The Highest Attainable Standard: Advancing a Collective Human Right to Public Health*, 37 COLUMBIA HUMAN RIGHTS L. REV. 101 (2005).

Optional Readings

- Eleanor D. Kinney, *The International Human Right to Health: What Does This Mean for Our Nation and World?*, 34 IND. L. REV. 1457 (2001).
- The Right of Everyone to the Highest Attainable Standard of Physical and Mental Health: Report of the Special Rapporteur, Paul Hunt, submitted in accordance with Commission Resolution 2002/31, U.N. ESCOR, 59th Sess., Agenda Item 23, ¶ 20, U.N. Doc. E/CN.4/2003/58 (2003).
- Alicia Ely Yamin, *The Right to Health Under International Law and Its Relevance to the United States*, 95 AM. J. PUB. HEALTH 1156 (2005).
- Benjamin Mason Meier & Lance Gable, US Efforts to Realise the Right to Health through the Patient Protection and Affordable Care Act, 13 HUMAN RIGHTS LAW REVIEW (2013).

Week 6: Applying the Right to Health to Global Governance: Access to Medications

Required Readings

- ROSALIND POLLACK PETCHESKY, GLOBAL PRESCRIPTIONS: GENDERING HEALTH AND HUMAN RIGHTS 116-24 (2002).
- Lisa Forman, "Rights" and Wrongs: What Utility for the Right to Health in Reforming Trade Rules on Medicines? 10 HEALTH AND HUMAN RIGHTS 37 (2008).
- William Easterly, Human Rights Are the Wrong Basis for Healthcare, FINANCIAL TIMES (FT.com) (October 12, 2009).

- Benjamin Mason Meier & Alicia Ely Yamin, Right to Health Litigation and HIV/AIDS Policy, 39 JOURNAL OF LAW, MEDICINE & ETHICS 81 (2011).

Optional Readings

- Alicia Ely Yamin, Not Just a Tragedy: Access to Medications as a Right Under International Law, 21 B.U. INT'L L.J. 325 (2003).
- Benjamin Mason Meier, Kristen Brugh & Yasmin Halima, Conceptualizing a Human Right to Prevention in Global HIV/AIDS Policy, PUBLIC HEALTH ETHICS (2012).
- George J. Annas, The Right to Health and the Nevirapine Case in South Africa, 348 NEW ENG. J. MED. 750 (2003).
- Leonard S. Rubenstein, Human Rights and Fair Access to Medication, 17 EMORY INT'L L. REV. 525 (2003).
- Mary Ann Torres, The Human Right to Health, National Courts, and Access to HIV/AIDS Treatment: A Case Study from Venezuela, 3 CHIC. J. INT'L L. 105 (2002).
- WORLD HEALTH ORG. & WORLD TRADE ORG., WTO AGREEMENTS & PUBLIC HEALTH: A JOINT STUDY BY THE WHO AND THE WTO SECRETARIAT 87-110 (2002).

Week 7: Employing International Law to Advance the Right to Health: The Case of Global Tobacco Control

Required Readings

- Carolyn Dresler & Stephen Marks, The Emerging Human Right to Tobacco Control, 28 HUMAN RIGHTS QUARTERLY 599 (2006).
- Rangita de Silva de Alwis & Richard Daynard, Reconceptualizing Human Rights to Challenge Tobacco, 17 MICH. ST. J. INT'L L. 291 (2008-2009).
- **OPTIONAL:** Benjamin Mason Meier, Breathing Life into the Framework Convention on Tobacco Control: Smoking Cessation and the Right to Health, 5 YALE J. HEALTH POL., L. & ETHICS 137 (2005).

Optional Readings

- Virginia Leary, Concretizing the Right to Health: Tobacco Use as a Human Rights Issue, in RENDERING JUSTICE TO THE VULNERABLE 161 (Fons Coomans et al. eds. 2000).
- WHO Framework Convention on Tobacco Control.
- Derek Yach & Douglas Bettcher, Globalisation of Tobacco Industry Influence and New Global Responses, 9 TOBACCO CONTROL 206 (2000).
- Jeff Collin et al., The Framework Convention on Tobacco Control: The Politics of Global Health Governance, 23 THIRD WORLD Q. 265, 273 (2002).

Unit 3: Applications of Human Rights to Health Promotion and Disease Prevention

Week 8: Reproductive Health as a Human Right

*** Second Position Paper Due**

Required Readings

- Nicholas D. Kristof, Birth Control Over Baldness, *NEW YORK TIMES*, Sept. 25, 2010.
- Sofia Gruskin et al., Using Human Rights to Improve Maternal and Neonatal Health: History, Connections and a Proposed Practical Approach, 86 *BULL. WORLD HEALTH ORG.* 589 (2008).
- Lance Gable, Reproductive Health as a Human Right, 60 *CASE WESTERN LAW REVIEW* 957 (2009).
- Reilly Anne Dempsey & Benjamin Mason Meier, Going Negative: How Reproductive Rights Discourse Has Been Altered from a Positive to a Negative Rights Framework in Support of 'Women's Rights', *WOMEN'S GLOBAL HEALTH AND HUMAN RIGHTS* (Padmini Murthy & Clyde Lanford Smith eds. 2009).

Optional Readings

- Alicia Ely Yamin, Transformative Combinations: Women's Health and Human Rights, 54 *J. AM. MED. WOMEN'S ASS'N* 169 (1997).
- Lynn Freedman, Censorship and Manipulation of Reproductive Health Information: An Issue of Human Rights and Women's Health, in *HEALTH AND HUMAN RIGHTS* 145- 78 (Jonathan M. Mann et al. eds. 1999).
- Adrienne Germain, Reproductive Health and Human Rights, 363 *LANCET* 65 (2004).

Week 9: A Human Right to Water?

*** One page outline of final paper due**

Required Readings

- Peter H. Gleick, *The Human Right to Water*, 1 *WATER POLICY* 487 (1998).
- Eibe Riedel, The Human Right to Water and General Comment No 15 of the CESCR, in *THE HUMAN RIGHT TO WATER* 19 (Eibe Riedel & Peter Rothen eds. 2006).
- Benjamin Mason Meier, Georgia Lyn Kayser, Urooj Quezon Amjad & Jamie Bartram, Implementing an Evolving Human Right Through Water and Sanitation Policy, 15 *WATER POLICY* 116 (2013).

Optional Readings

- Inga T. Winkler, Human Right to Water: Significance, Legal Status and Implications for Water Allocation (2012).
- Catarina de Albuquerque, On the Right Track: Good Practices in Realising the Rights to Water and Sanitation (2012).
- Sharmila L. Murthy, *The Human Right(s) to Water and Sanitation: History, Meaning and the Controversy over Privatization*, *BERKELEY JOURNAL OF INTERNATIONAL LAW* (2013).

Week 10: Economic Development Policy for Public Health

Required Readings

- Paula Braveman & Sofia Gruskin, Poverty, Equity, Human Rights and Health, 81 BULL. WORLD HEALTH ORG. 539 (2003).
- Stephen Marks, The Human Right to Development: Between Rhetoric and Reality, 17 HARV. HUM. RTS. J. 137 (2004).
- Benjamin Mason Meier & Ashley M. Fox, Development as Health: Employing the Collective Right to Development to Achieve the Goals of the Individual Right to Health, 30 HUMAN RIGHTS QUARTERLY 259 (2008).
- Zanny Minton Beddoes, For Richer, for Poorer, THE ECONOMIST, October 13, 2012.

Optional Readings

- KELLEY LEE, GLOBALIZATION AND HEALTH: AN INTRODUCTION 185-215 (2003).
- Reidar K. Lei, *Health, Human Rights and Mobilization of Resources for Health*, 4 BMC INT'L HEALTH & HUMAN RTS (2004).
- Brooke G. Schoepf et al., Theoretical Therapies, Remote Remedies: SAPs and the Political Ecology of Poverty and Health in Africa, in DYING FOR GROWTH: GLOBAL INEQUALITY AND THE HEALTH OF THE POOR (Jonathan Mann et al. eds. 2000).
- WORLD HEALTH ORG., MACROECONOMICS AND HEALTH: INVESTING IN HEALTH FOR ECONOMIC DEVELOPMENT 1-20 (2001).

Week 11: Chronic Illness: A Human Rights Approach Mental Health Policy

Required Readings

- Michael L. Perlin, International Human Rights Law and Comparative Mental Disability Law: The Universal Factors, 34 SYRACUSE J. INT'L L. & COM. 333 (2006-2007).
- Lance Gable & Lawrence O. Gostin, [Mental Health as a Human Right](#), in REALIZING THE RIGHT TO HEALTH (2009).
- Frédéric Mégret, The Disabilities Convention: Human Rights of Persons with Disabilities or Disability Rights?, 30 HUMAN RIGHTS QUARTERLY 494 (2008).

Optional Readings

- Eric Rosenthal & Clarence J. Sundram, International Human Rights and Mental Health Legislation, 21 N.Y. L. SCH. J. INT'L & COMP. L. 469 (2002).
- Lawrence O. Gostin & Lance Gable, The Human Rights of Persons with Mental Disabilities: A Global Perspective on the Application of Human Rights Principles to Mental Health, 63 MD. L. REV. 20 (2004).

Unit 4: Ethics, Human Rights, and Health Professionals: Ethical Obligations of Health Professionals in the Face of Human Rights Violations

Week 12: The Nuremberg Principles: Health Workers as Agents of Harm

**** Third Position Paper Due***

Required Readings

- Telford Taylor, Opening Statement of the Prosecution, December 9, 1946, at <http://www.ushmm.org/research/doctors/telford.htm> (read online for background).
- Jeremiah A. Barondess, Medicine Against Society: Lessons from the Third Reich, 276 JAMA 1657 (1996).
- Andreas Frewer, Human Rights from the Nuremberg Doctors Trial to the Geneva Declaration. Persons and Institutions in Medical Ethics and History, MEDICINE, 13 HEALTH CARE AND PHILOSOPHY 259 (2010).
- George J. Annas, Human Rights Outlaws: Nuremberg, Geneva, and the Global War on Terror, 87 B.U.L. REV. 427 (2007).

Optional Readings

- George J. Annas & Michael A. Grodin, Medical Ethics and Human Rights: Legacies of Nuremberg, 3 HOFSTRA L. & POL'Y SYMP. 111 (1999).
- Benjamin Mason Meier, International Criminal Prosecution of Physicians: A Critique of Professors Annas and Grodin's International Medical Tribunal, 30 AM. J. L. & MED. 419 (2004).
- Victor W. Sidel, The Social Responsibilities of Health Professionals: Lessons from Their Role in Nazi Germany, 276 JAMA 1679 (1996).
- HUMAN RIGHTS AND HEALTH: THE LEGACY OF APARTHEID 1-15, 119-30 (Audrey R. Chapman & Leonard S. Rubenstein eds. 1998).

Week 13: Torture and Human Experimentation

Required Readings

- Reread Tuskegee Summary
- Ezekiel J. Emanuel et al., What Makes Clinical Research in Developing Countries Ethical? The Benchmarks of Ethical Research, 189 J INFECTIOUS DISEASE 930 (2004).
- Ilja R. Pavone, Biomedical Research in Developing Countries and International Human Rights Law, in HUMAN MEDICAL RESEARCH 65 (2012).
- Benjamin Mason Meier, International Protection of Persons Undergoing Medical Experimentation: Protecting the Right of Informed Consent, 20 BERKELEY J. INT'L L. 513 (2002).

Optional Readings

- Vincent Iacopino, Scott A. Allen & Allen S. Keller, Bad Science Used to Support,

- Torture and Human Experimentation, 331 SCIENCE 34 (2011).
- Steven H. Miles, Abu Ghraib: Its Legacy for Military Medicine, 364 LANCET 725 (2004).
 - Robert Truog & Troyen Brennan, Participation of Physicians in Capital Punishment, 329 N. ENG. J. MED. 1346 (1993).
 - David P. Fidler, “Geographical Morality” Revisited: International Relations, International Law, and the Controversy over Placebo-Controlled HIV Clinical Trials in Developing Countries, 42 HARV. INT’L L.J. 299 (2001).
 - John Jones, Harold Varmus & David Satcher, Ethical Complexities of Conducting Research in Developing Countries, 337 N. ENG. J. MED. 1003 (1997).

Week 14: Human Rights vs. Public Health?

Required Readings

- LAWRENCE GOSTIN & ZITA LAZZARINI, HUMAN RIGHTS AND PUBLIC HEALTH IN THE AIDS PANDEMIC 43-55 (1997).
- Int’l Federation of Red Cross and Red Crescent Societies & François-Xavier Bagnoud Center for Health and Human Rights, The Public Health—Human Rights Dialogue, in HEALTH AND HUMAN RIGHTS 46-53 (Jonathan M. Mann et al., eds. 1999).
- Lawrence Gostin & Jonathan Mann, Towards the Development of a Human Rights Impact Assessment for the Formulation and Evaluation of Health Policies, 1 HEALTH & HUM. RTS. 6 (1994).

Optional Readings

- Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights (1985).
- George J. Annas, The Impact of Health Policies on Human Rights: AIDS and TB Control, in HEALTH AND HUMAN RIGHTS 37-45 (Jonathan M. Mann et al., eds. 1999).
- DAVID P. FIDLER, INTERNATIONAL LAW AND INFECTIOUS DISEASES 169-79 (1999).
- WENDY E. PARMET, PUBLIC HEALTH & SOCIAL CONTROL: IMPLICATIONS FOR HUMAN RIGHTS (2009).