

CH 188-03: HEALTH, CIVIL LIBERTIES, & HUMAN RIGHTS

Spring 2007

Wednesdays 4:30-7:00

Community Health Program 2d Fl. Conference Room

Professor Alissa Spielberg

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Office Hours: After class, TBA, & by appointment

This seminar examines the issues surrounding the provision and promotion of health in the context of enduring tensions between individual rights and communal norms, goods, and laws. Using concepts based in social-cultural, ethical, legal, and political analysis, we will examine questions of civil liberties -- including personal privacy and autonomy, individual behaviors (and attempts to change them) -- and the relationship between health and human rights (both nationally and internationally). How do social forces become embedded as pathologies?

We will explore the key documents that define human rights globally and analyze their origins, shortcomings, and applications. We will look closely at the interdependency of health and human rights; indeed, we will ask whether we can ever hope to promote public health in the absence of securing certain specific human rights guarantees. We will look at specific instances of human rights abuses, the consequences of war, the impact of human rights concerns on all people, with a special focus on women, children, and marginalized groups. The course also examines issues of universality of human rights and cultural relativism and the role of accountability for past abuses in prevention. Students will be encouraged to examine critically sources and arguments, testing their ideas in class discussion and written work.

## READINGS:

- Boyle, E. H. Female Genital Cutting: Cultural Conflict in the Global Community (Johns Hopkins Univ. Press, 2002).
- Farmer, P. *Pathologies of Power: Health, Human Rights, and the New War on the Poor* (U. Cal. Press, 2005).
- Gruskin, S., Grodin, M.A., Annas, G.J., & Marks, S.P., eds. *Perspectives on Health and Human Rights* (Routledge, 2005).
- Kassindja, F. and L.M. Bashir. *Do They Hear You When You Cry?* (Delta, 1998).
- Marks, S.P., ed. *Health and Human Rights: Basic International Documents* (Harvard Univ. Press, 2004).
- Murdoch, J. & Price, D. *Courting Justice: Gay Men & Lesbians vs. The Supreme Court* (Basic Books, 2002).
- Waldby, C. & Mitchell, R. *Tissue Economies: Blood, Organs, & Cell Lines in Late Capitalism* (Duke Univ. Press 2006).

Assorted articles & book chapters to be made available.

## Optional:

- Katz, J. *The Silent World of Doctor and Patient* (Johns Hopkins Univ. Press, 2002 reprint)
- Rothman, D. *Strangers at the Bedside: A History of How Law and Bioethics Transformed Medical Decisionmaking* (Aldine, 2002 reprint)

## AVAILABILITY

I am available to meet with students, primarily during scheduled meetings. I will also hold open-door office hours, in my office on the 2d floor of the CHP Office, with a time to be set shortly.

Please do not hesitate to contact me by email to ask a question or set up an appointment. I am happy to answer your emails, but know that there may be times when it will take 24-48 hours to respond. On the whole, I try to answer emails as soon as I see them.

## WEB/E-mail

Through Blackboard you can access the course site, where I will post the Syllabus, Calendar, assorted readings, links, and other information. There is also a discussion area, which I hope will become an active place for your questions and comments. There will also be a class e-mail list.

## COURSE REQUIREMENTS AND EVALUATION

### EXPECTATIONS:

Come to class prepared to discuss the readings and other assigned media. Some of the articles may require you to read them more than once. Be patient. Read actively, with pen in hand, underlining, marking key points, and taking notes on passages or concepts you want to untangle further. Identify the author's key arguments & thesis. Write out questions that the articles raise for you. You might even want to send them to me by e-mail. Think about the connections of readings from one week to the next: Do they relate to each other or are there tensions in the reasoning across fields?

Your attendance is part of your participation grade. Attendance is required; you may have up to 2 unexcused absences before your participation grade will be lowered one grade level. Please let me know **in advance** if you know you will not be able to attend class or shortly after the missed class if you have some unavoidable problem.

Likewise, repeated lateness disturbs the class and may be cause for grade depreciation. Three late arrivals will equal one absence.

Please do not bring electronic equipment to class that might distract you from the discussion (or bother others). Accordingly, no headphones (unless required for a known disability), no Internet-connected devices, or ringing cell phones will be permitted. Please remember to set your phones to vibrate or turn them off before class. You may not answer, call, text, or talk on the phone during class time. If you have special circumstances that require you to have your phone on, please notify me in advance.

Plagiarism will not be tolerated. It is expected that all material that you submit is your own work. Outside sources must be properly referenced, including Internet pages. If you are unfamiliar with the concept of plagiarism, please read Tufts's Plagiarism policy. You should be aware that even unintentional use of others' work, including unattributed quotations or paraphrased summaries, constitutes plagiarism. So, be cautious. When in doubt, cite! You might also want to refer to a writing manual to familiarize yourself with standard citation formats. [Nutsandboltsguide.com](http://Nutsandboltsguide.com) is one good starting place. You don't need to borrow other people's ideas – you all have your own good ones & the course should help you to put them down on paper.

This is a course about a variety of issues about which many people hold strong views. While the course intends to focus on using specific ethical theories and textual analysis to support your arguments, there should be space for all viewpoints to emerge. Please be respectful of other students as they express ideas that may not conform to your personal beliefs. Remember that questioning a line of argument or its reasoning is different from attacking someone's personal beliefs. Courteous treatment of others in discussion is also a part of good class participation. This is an opportunity to expand your thinking and to understand the reasoning behind differing viewpoints.

I may amend the syllabus as warranted throughout the semester.

## COURSE EVALUATION:

### Short Position Papers and Participation:

Brief writing assignments (1 page response papers for example) and short in-class writing exercises related to the reading, will be given occasionally. Your thoughtful classroom participation is strongly encouraged. Small and large group discussions will give you the opportunity to engage the material deeply with others. Likewise, participation on the Blackboard site board will be taken into account. Issues in women's health policy are dynamic and on local, national, and international agendas. Please bring relevant issues that you learn about outside the classroom to the classroom for our attention.

### Presentations

### Research Paper

There will be one 15-20 page research paper, due **May 4**. Topic proposals, outlines, and drafts will be due during the course. You will also be expected to present your topic to the class prior to handing it in. Papers must be turned in – in hard copy -- to the Community Health Program office by 5:00. You may not submit an electronic version of your paper unless you receive advance permission for extraordinary circumstances.

<u>Assignments</u>	<u>Grade Weight</u>	<u>Due Date</u>
Paper & related assignments	40%	May 4
Presentations	20%	throughout
Brief assignments/Participation	40%	throughout

## DISABILITY STATEMENT:

If you believe you have a disability that may warrant accommodations in this class, I urge you to register with the Disability Services Coordinator.

## COURSE CALENDAR

### WEEK 1 – January 24

Overview: Health, Civil Liberties, & Human Rights  
Introduction, Concepts, & Themes

### Perspectives, Part I

### WEEK 2 – January 31

Civil Liberties: Reproductive Health & Foundations of Privacy

Recommended Background/Context:

Solinger, R., *Wake Up Little Susie: Single Pregnancy and Race Before Roe v. Wade*, chs. 3-Afterward (pp. 86-247).

Rosen, R. *The World Split Open: How the Modern Women's Movement Changed America*, chronology (pp. xvii-xxxvi); chs. 1-2 (pp. 3-37); ch. 3 (pp. 63-93); ch. 5 (pp. 143-195).

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*Griswold v. Connecticut*

Reagan, L.J., "Radicalization of Reform," in *When Abortion Was A Crime: Women, Medicine, and Law in the U.S., 1867-1973*, pp.216-245.

*Roe v. Wade*

*Planned Parenthood v. Casey*

Dworkin, R.B. "Abortion: The Perils of Thinking Big," in *Limits*, pp. 19-53.

Center for Reproductive Law and Policy, *Privacy Law and the U.S. Supreme Court: Before and After Roe v. Wade*, at:

[http://www.reproductiverights.org/pub\\_fac\\_timeline.html](http://www.reproductiverights.org/pub_fac_timeline.html)

*Ayotte v. Planned Parenthood of Northern New England*, 126 S.Ct. 961 (2006)

Sandor, J. "Reproduction, Self, & State." *Social Research*, Spring 2002: 115-141.

Annas, G.J. "Partial Birth Abortion" in *American Bioethics: Crossing Human Rights & Health Law Boundaries* (Oxford 2005).

### WEEK 3 – February 7

#### Civil Liberties: Privacy, Autonomy, & Rights of Patients

*Brown v. Board of Education*, 347 US 483 (1954).

Jackson, J. "Creating A Consensus: Psychologists, the Supreme Court, and School Desegregation, 1952-1955." *Journal of Social Issues*, Spring 1998.

Public Health Law, chs. 2-4 (pp. 25-107).

Strangers at the Bedside, chs. 6-7 (pp. 101-147).

The Silent World of Doctor and Patient, chs. III-IV (pp. 48-103).

"Shifting Foundations of the Doctor-Patient Relationship" and "Defining Autonomy" in Tauber, A. I. *Patient Autonomy and the Ethics of Responsibility* (MIT, 2005).

Grey, J. "How Did it Ever Come to This?" *Medical Economics*, Oct. 19, 1998.

"Patients' Preferences About Autonomy" in Schneider, C.E. *The Practice of Autonomy* (Oxford, 1998).

Gordon, R.W. "Some Critical Theories of Law & Their Critics," in The Politics of Law, pp.641-661.

Rabinowitz, V., "The Radical Tradition in the Law," in The Politics of Law, pp. 680-690.

West, C., "The Role of Law in Progressive Politics." in The Politics of Law, pp.708-717.

### WEEK 4 – February 14

#### Civil Liberties: Using Privacy to Gain Civil Rights: Case Study: Gay Rights & the Construction of Sexualities

Optional videos online: *Before Stonewall* & *After Stonewall* (both available through google video)

Courting Justice

Halley, J., "Gay Rights and Identity Imitation: Issues in the Ethics of Representation," in The Politics of Law, pp.115-146.

In Sex, Morality, and the Law:

*Bowers v. Hardwick* (pp. 4-14).

Goldstein, "History, Homosexuality, and Political Values: Searching for the Hidden Determinants of *Bowers v. Hardwick*" (pp. 32-43).

Leiser, "Homosexuality and the 'Unnaturalness Argument'" (pp. 44-51).

*Lawrence v. Texas*, 2003

Greene, J. "Beyond Lawrence: Metaprivacy & Punishment" *Yale Law Journal* (June 2006).

## WEEK 6 – February 21

### Civil Liberties: Medical Records Privacy & Bodily Integrity in the Electronic Age

Etzioni, A. "Medical Records: Big Brother Versus Big Bucks." In *The Limits of Privacy* (BasicBooks, 1999), pp. 139-182.

Albrecht, K. & McKintyre, L. "yes, That's your Medicine Cabinet Talking: How Your Doctor, Pharmacy, & Hospital Plan to Use RFID." In *Spychips* (Nelson, 2005).

Gostin, LO., "National Health Information Privacy" *JAMA* 2001; 285(23): 3015.

Gostin *et al.* , "Informational Privacy & the Public's Health: a Model State Public Health Privacy act." *AJPH* 2001: 91(9): 1388-92

Hodge, James G.; Gostin, Kieran G., "Challenging Themes in American Health Information Privacy and the Public's Health: Historical and Modern Assessments." *Journal of Law, Medicine & Ethics*, Winter 2004, Vol. 32 Issue 4, p670-679.

Spielberg, AR. "Online Without A Net: Physician-Patient Communication by Electronic Mail." *25 Am. J. Law, Med. & Ethics* 1999: 267-96.

Rothstein, M. & Talbott. "Compelled Disclosure of Health Information: Protecting Against the Greatest Threat to Privacy." *JAMA*, 2006; 295: 2882-5.

Bramstedt, KA. "When microchip implants do more than drug delivery: Blending, blurring, and bundling of protected health information and patient monitoring." *Technology & Health Care*, 2005, Vol. 13 Issue 3, p193-19.

FIGO Committee Report: Confidentiality, Privacy, & Security of Patients' Health care Information." *Internat'l J. of Gynecology & Obstetrics*, 93: May 2006.

## WEEK 7 – February 28

### Is Health a Human Right? Rights in Theory to Rights in Action

Perspectives, Part VII & Part VI, & pp. 73-94.

Pathologies of Power, Part II

Mann JM, Gostin L, Gruskin S, Brennan T, Lazzarini Z, Fineberg HV (1994).

Health and human rights. *Health Hum Rights*. 1994 Fall;1(1):6-23.

<http://www.hsph.harvard.edu/fxbcenter/VINImannetal.htm>

• Leary VA (1994). The right to health in international human rights law. *Health Hum Rights*. Fall;1(1): 24-56.

<http://www.hsph.harvard.edu/fxbcenter/VINileary.htm>

## WEEK 8 – March 7

### Sexual & Reproductive Health Rights

Film: *Dangerous Living: Coming Out in the Developing World*

Perspectives, Part IV

Hesketh T, Lu L, Xing ZW. (2005). The effect of China's one-child family policy after 25 years. *N Engl J Med*. 353(11):1171-6.

Jha P, Kumar R, Vasa P, Dhingra N, Thirichelvam, Moineddin R

(2006). Low male-to-female sex ratio of children born in India: national survey of 1.1 million households. *Lancet* 367:211-18.

Obermeyer, CM (1995). A cross-cultural perspective on reproductive rights. *Human Rights Quarterly* 17(2):366-381.

Coercive population control (CPC) as grounds for asylum (US Code Title 8, § 1101. Definitions), e.g.: <http://uscis.gov/graphics/services/asylum/cpc.htm>

Crane BB, Dusenberry J (2004). Power and politics in international funding for reproductive health: the US Global Gag Rule. *Reprod Health Matters*. 2004 Nov;12(24):128-37.

o Miller S, Billings DL (2005). Abortion and postabortion care: ethical, legal, and policy issues in developing countries. *J Midwifery Womens Health*. 2005 Jul-Aug;50(4):341-3.

## WEEK 9 – March 14

### **Gender & Human Rights**

Levison, J. "Women's Health & Human Rights" in Women, Gender, & Human Rights (M. Agosin, ed.)

Kaplan, T. "Women's Rights as Human Rights: Women as Agents of Social Change." in Women, Gender, & Human Rights (M. Agosin, ed.).

Merry, S.E. "Gender Rights and the CEDAW Process." In Merry, S.E. Human Rights and Gender Violence (Univ. of Chicago Press, 2006).

Soh, C.S. "Sexual Enslavement & Reproductive Health: Narratives of *Han* among Korean Comfort Women Survivors." In Sexual Inequalities & Social Justice.

Carrillo, H. "Where Does Oppression End & Pleasure Begin?: Confronting Sexual & Gender Inequality in HIV Prevention Work." In Sexual Inequalities & Social Justice.

Declaration on the Elimination of Violence against Women, GA Res. 48/104 (20 Dec. 1993), <http://www.un.org/documents/ga/res/48/a48r104.htm>

Optional (resource): "Violence against women: a statistical overview, challenges and gaps in data collection and methodology and approaches for overcoming them," 11-14 April, 2005

<http://www.un.org/womenwatch/daw/egm/vaw-stat-2005/>

General Assembly Res. 59/166A: Trafficking in Women and Girls (20 Dec. 2004)

<http://daccessdds.un.org/doc/UNDOC/GEN/N04/486/22/PDF/N0448622.pdf>

[Optional]: Trafficking in Women and Girls. (2002) Final Report of Expert Group. UN Division for the Advancement of Women/Office on Drugs & Crime  
<http://www.un.org/womenwatch/daw/egm/trafficking2002/reports/Finalreport.PDF>

## WEEK 10 – SPRING BREAK

### WEEK 11 – March 28

#### Gender & Culture: FGM Case Study

Do They Hear You When You Cry?

Female Genital Cutting: Cultural Conflict in the Global Community.

### WEEK 12 – April 4

#### Gender & Religion

Video on Women's Rights & Health in Iran (google video).

Afkhami, M. "Gender Apartheid, Cultural Relativism, and Women's Rights in Muslim Societies." in Women, Gender, & Human Rights (M. Agosin, ed.).

"Social & Political Sciences Perspectives on the Impact of Religious Fundamentalism on Women." In Religious Fundamentalisms and the Human Rights of Women (Howland, C.W., ed.) Palgrave, 1999.

### WEEK 13 – April 11

#### Poverty & Health

Pathologies of Power, chs. 1, 3, 4

## WEEK 14 – April 18

### Finding Health in Violence & War

View online: *Invisible Children* (available through google video)

#### Perspectives, Part V

Convention on the Prevention and Punishment of the Crime of Genocide.

General Assembly resolution 260 A (III) of 9 December 1948, entry into force 12 January 1951, in accordance with article XIII. (ratification)

[http://www.unhchr.ch/html/menu3/b/p\\_genoci.htm](http://www.unhchr.ch/html/menu3/b/p_genoci.htm) ,

Stanton G (1996). 8 stages of genocide.

<http://www.genocidewatch.org/8stages.htm>

Stanton G (2005). A short history of genocide: Genocide, politicide and other mass murder since 1945 with current stages.

<http://www.genocidewatch.org/genocidetable2005.htm>

Verwimp P (2004): Death and survival during the 1994 genocide in Rwanda. *Population Studies*. 58(2): 233-45. (ER)

Leaning L (2004). Diagnosing genocide – the case of Darfur. *NEJM*. 351(8): 735-8. (ER)

• Correction to Leaning, *N Engl J Med* 351(8):735-738 August 19, 2004.

• [Optional]: Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General. 25 January 2005. [www.un.org/News/dh/sudan/com\\_inq\\_darfur.pdf](http://www.un.org/News/dh/sudan/com_inq_darfur.pdf)

Hampton T (2005). Agencies speak out on rape in Darfur. *JAMA*. 294(5): 542-4.

#### Suggested:

Video: *The Impact of War on Health & Human Rights* (lecture) (available on google video)

Film: *Hotel Rwanda*

## WEEK 15 – April 25

### **Bodily Rights & Patent Wars: Organs, Tissues, Cells & Future Mobilization for Health & Human Rights**

#### Perspectives, Part III

Suggested: Tissue Economies.

World Medical Association, Declaration on Human Organ Transplantation (1987). <http://www1.umn.edu/humanrts/instree/organtransplantation.html>

World Medical Association, Resolution on Physicians' Conduct Concerning Human Organ Transplantation (1994).

<http://www1.umn.edu/humanrts/instree/physicianconduct.html>

General Assembly Res. 59/156: Preventing, combating and punishing trafficking in human organs (2004)

<http://daccessdds.un.org/doc/UNDOC/GEN/N04/485/62/PDF/N0448562.pdf>

[or try A/RES/59/156 on <http://www.un.org/Depts/dhl/resguide/r59.htm> ]

•Mattas D, Kilgour D. Report into allegations of organ harvesting of Falun Gong practitioners in China. 6 July 2006

Report. <http://www.david-kilgour.com/2006/Kilgour-Matas-organ-harvesting-rpt-July6-eng.pdf>

Appendix. [http://www.david-kilgour.com/2006/FINAL\\_appendices\\_20060706\\_short.pdf](http://www.david-kilgour.com/2006/FINAL_appendices_20060706_short.pdf) [not short]

Chinese Embassy response to report. (7 July 2006)

<http://www.chinaembassycanada.org/eng/xwdt/t261810.htm>

Kilgour-Matas reply to Embassy response. (7 July 2006)

<http://www.david-kilgour.com/2006/KilgourMatasReply.doc>

Lamb, GM. China faces suspicions about organ harvesting. Christian Science Monitor (3 August 2006).

<http://www.csmonitor.com/2006/0803/p16s01-lire.html>

## May 4 Papers Due

