

Harvard University
School of Public Health
Department of Population and International Health

ISSUES IN HEALTH AND HUMAN RIGHTS

PIH 288

October 31, 2006 to December 21, 2006

Syllabus

Instructor: Professor Stephen P. Marks. Tel. 432-4316, email: smarks@hsph.harvard.edu

Time and Place: Tuesdays and Thursdays, 1:30-3:20 pm

Office hours: Room 1202B, HSPH Building I, Tues. 4:00 – 6:00 p.m. and by appointment

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Introduction

Scope and Objectives of the Course

1. The aim of this course is to introduce students to the application of the human rights framework to a wide range of critical areas of public health. The focus will be the human rights perspective as applied to selected public health policies, programs and interventions. It ranges broadly over theoretical approaches and concrete issues relating to the realization of internationally recognized human rights in the context of domestic and international policies of public health. While public health addresses issues of equity, marginalization, empowerment and social justice, this course will explore whether and to what extent human rights complements, duplicates or impinges upon such concerns. Our aim is to acquire insights and understanding of social, economic, cultural, legal, and political processes by which human rights advance public health objectives.

2. The unifying thread in the course is the set of rights defined in the international instruments. Much of our discussion involves analysis of the meaning and reality of these rights in the face of a broad set of variables and determinants of public health. The course will take into account normative statements and practices of United Nations bodies, including the World Health Organization, and other international institutions, as well as the role of political forces, transnational corporations and nongovernmental groups.

3. The examples and cases examined will overlap with than main concerns of public health, defined broadly as a state of physical, mental and social well-being. The issues include communicable diseases, like AIDS and SARS, behavioral issues, like violence and smoking, and structural issues, like poverty and biotechnology. The importance of health as expanding human capability and freedom applies to the full range of issues covered in the course and has implications for understanding human rights as more than the formal compliance with standards of conduct or of result.

Methods and requirements

4. Through lectures, cases and guest speakers, students will become familiar with the linkages between health and human rights. Each session of the course will focus on a theme with related readings. The readings deal with a broad issue, such as infectious diseases, whereas the case will be more specific, such as SARS in China. All students should be prepared for discussion around the case or the lecture. Everyone is strongly encouraged to participate actively both to enhance the learning process and to improve course grades. The quality of your oral presentations, discussion of cases, and the course paper, discussed below, will also be considered in determining your grade.

Readings

5. The readings will come primarily from Gruskin, Grodin, Annas and Marks, *Perspectives on Health and Human Rights* (New York and London: Routledge, 2005), referred to below as “Perspectives;” Marks, *Health and Human Rights: Basic International Documents* (2nd ed., Cambridge, MA: Harvard University Press, 2006), referred to below as “Basic Documents;” as well as from supplemental material to be distributed in class.

6. The “questions for discussion” that follow the list of readings are designed to guide you through the readings. After completing the assigned readings you should be able to answer those questions for yourself. They are not necessarily the questions to be examined in class. When we focus on a case in class, you will offer your ideas on the specific case being examined. Your understanding of the “questions for discussion” should help you place the specifics of the case in a broader context of health and human rights.

Course Papers

7. The course paper you will write will count for most of your grade. Your paper should focus on the application of a human rights approach to a specific topic of public health. It should identify the principal public health challenges of the issue and assess whether and to what extent a human rights framework would be relevant to improving the response to the problem.

8. In order to help you focus your paper, you will submit a note on the topic you have selected, indicating the working title, the questions you will address, a working outline and a preliminary bibliography (total of two to three pages) by **Thursday, November 16, 2006**.

9. The essential aim of the paper is to apply the knowledge and insights you have gained during the course to a topic not covered in depth. Unlike a research paper, your term paper should be either an analytical study of an issue or a policy paper. An *analytical study* focuses on one or several questions or issues, identifying the elements of the problem and providing convincing arguments for understanding trends and envisaging solutions. An example would be “How can human rights concerns be reconciled with the effectiveness of a public health response to a major epidemic?” A *policy paper* sets out the advantages and disadvantages of several alternative or complementary courses of action. The format of this type of paper is usually to identify the pros and cons of 3-5 policy options that you might present to a decision maker. The clarity and originality with which you address the issues, the coherence of your arguments, and the appropriate and accurate use of sources will all be considered in evaluating your paper. Your own conclusions and, where appropriate, recommendations should be given.

10. Your paper should be approximately 15 pages, double-spaced, excluding bibliography. It should have (a) a title page, (b) a table of contents, (c) numbered pages, (d) footnotes at the bottom of the page (please do not use parenthetical referencing), and (e) a bibliography. If you have doubts regarding style, form or referencing, consult Joseph Gibaldi, *MLA Handbook for*

Writers of Research Papers, 6th edition, New York: The Modern Language Association of America, 2003, or other standard works such as Turabian or the *Chicago Manual of Style*. Footnotes should be used to identify every direct quote, expression of opinion, and data or factual statement of significance (other than facts of common knowledge). For United Nations documents, cite the full title and use the official document number and the date, followed by paragraph (rather than page) numbers (e.g., *Report of the Secretary-General on the Work of the Organization*. August 2003, UN Doc. A/50/1 (28 August 2003), para. 34.) For resolutions of UN organs, you may simply cite the resolution number and year (e.g., Security Council Resolution 940 (1994)).

11. Papers are due on the last day of class, **Thursday, December 21, 2006**. Students will make an oral presentation (approximately 5 minutes) on the last day of class to share their principal findings and conclusions with the class.

Schedule of sessions

Session 1: Tuesday, October 31, 2006

Overview of course structure, objectives and methods and introduction to human rights as political rhetoric and international regime

Readings

- Perspectives*, pp. 3-13.
- Basic Documents*, pp. 1-26.

Session 2: Thursday, November 2, 2006

The content and process of international human rights applied to health

Readings

- Perspectives*, pp. 13-49.
- Basic Documents*, pp. 80-108.
- Paul Hunt, *The right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Report of the Special Rapporteur*, UN doc. E/CN.4/2003/58 of 13 February 2003. (To be distributed)

Questions for Discussion

1. How does an issue become part of the international human rights agenda?

2. Who is bound by international human rights law?
3. How are human rights enforced?

Session 3: Tuesday, November 7, 2006

Violence as a public health issue

Readings

- World Health Organization, “Violence—a global public health problem,” in *World report on violence and health* (edited by Etienne G. Krug, Linda L. Dahlberg, James A. Mercy, Anthony B. Zwi and Rafael Lozano), Geneva, 2002, pp. 3-21. (To be distributed.)
- Perspectives*, pp. 271-291.
- Basic Documents*, pp. 109-113, 244-248.
- Case to be distributed in class.

Questions for Discussion

1. What human rights norms and mechanisms are applicable to the various types of individual, interpersonal and collective violence outlined in the WHO report?
2. How has the human rights framework been used in relation to the problem of violence against women?
3. What human rights norms and mechanisms are relevant to sexual violence?

Session 4: Thursday, November 9, 2006

Ethics and human rights: The Nuremberg principles and recent developments

Guest: Professor Daniel Wikler, Ph.D., Professor of Ethics and Population Health
Department of Population and International Health

Readings

- Perspectives*, pp. 537-548.
- Basic Documents*, pp. 27-79.
- Leo Alexander, “Medical Science Under Dictatorship,” *New England Journal of Medicine*, July 14, 1949, pp. 39-47. (To be distributed.)
- Daniel Wikler and Jeremiah Barondess, “Bioethics and Anti-Bioethics In Light of Nazi Medicine: What Must We Remember?,” *Kennedy Institute of Ethics Journal*, vol. 3, No. 1, pp. 39-55 (1993). (To be distributed.)

Questions for Discussion

1. What do the contemporary movements of human rights and of bioethics have in common?
2. What human rights standards apply to research using human subjects?
3. What acts are covered by the Nuremberg principles and what measures can be taken against those who violate those principles?

Session 5: Tuesday, November 14, 2006

Child development and health: Dealing with the worst forms of child labor

Readings

- Basic Documents*, pp. 249-279.
- “How do international labour standards and other international treaties address the worst forms of child labour?” extract from ILO and IPU, *Eliminating the Worst Forms of Child Labour: A practical guide to ILO Convention No. 182*, 2002.
- Case to be distributed separately.

Questions for Discussion

1. To what extent have workers benefited from specialized human rights standards and mechanisms?
2. Does the effort to single out the “worst forms of child labor” enhance or weaken the use of human rights standards and mechanisms to improve the health of children who work?
3. What measures are the most effective and the least effective in dealing with the problem of child labor?

Session7: Tuesday, November 21, 2006

Infectious diseases: SARS in China

Readings

- Perspectives*, pp. 413-426.
- Basic Documents*, pp. 319-353.
- Case study: SARS in China (To be distributed.)

Questions for discussion

1. What lessons can be learned from applying a human rights framework to HIV/AIDS?
2. To what extent do those lessons apply to other infectious diseases?
3. What policy recommendations would you make in the case of SARS in China?

Session 6: Thursday, November 16, 2006

NOTE: Outline of paper due

Reproductive and Sexual Health and Rights

Guest speaker: Bonnie Shepard

Readings

- Perspectives*, pp. 247-270.
- Basic Documents*, pp. 212-244.

Session 8: Thursday, November 23, 2006

Thanksgiving Recess

Session 9: Tuesday, November 28, 2006

Disabilities: A human rights approach to mental disabilities

Readings

- Basic Documents*, pp. 279-300.
- Eric Rosenthal and Clarence J. Sundram, "International Human Rights and Mental Health Legislation," *New York Law School Journal of International & Comparative Law*, vol. 21, pp. 469-536.[extracts]
- Case Study: People with Mental disabilities in Kosovo. (To be distributed.)

Questions for Discussion

1. What are the priority issues of persons with mental disabilities from the human rights perspective?
2. Should persons with mental disabilities be considered according to general standards that apply to disabilities in general or are there special standards relevant to their conditions?

3. What are the salient features, if any, of a human rights approach to health policy regarding persons with disabilities that differs from health policy as practices in most departments of public health?

Session 10: Thursday, November 30, 2006

Aging: Long-term care and preservation of dignity

Readings

- Basic Documents*, pp. 300-305.
- WHO, Fact Sheet No. 135, *Population Ageing—A Public Health Challenge*, 1998.
- Russell E. Morgan and Sam David, “Human Rights: A New Language for Aging Advocacy,” *The Gerontologist*, vol. 42, No. 4, pp. 436-442.
- United Nations Principles for Older Persons, 16 December 1991.
- United Nations, Proclamation on Ageing, 16 October 1992.
- Case: Cambodia. (To be distributed.)

Questions for Discussion

1. Are the human rights of older persons any different from those of any other age group? If so in what sense?
2. What are the advantages and disadvantages of differentiated human rights according to life stages?
3. Does the approach of the Convention on the Rights of the Child offer a useful example of differentiation? Does it coincide with a proper understanding of child development? Could a similar approach be used for older persons?

Session 11: Tuesday, December 5, 2006

Access to affordable drugs in resources-poor areas: TRIPS and patents on ARVs

Readings

- Perspectives*, pp. 179-222, 497-518.
- Basic Documents*, pp. 340-363.
- WTO, TRIPS and Public Health: The separate Doha Declaration explained. (To be distributed.)

Questions for Discussion

1. Do rights over intellectual property constitute human rights?

2. How have the rules governing production and distribution of drugs needed to deal with public health crises like HIV/AIDS evolved in recent years?
3. What are the human rights obligations of states and corporation as regards access to HIV/AIDS drugs in developing countries?

Session 12: Thursday, December 7, 2006

Behavior and Environment Health: Tobacco Control

Guest: Melissa E. Crow, JD

Readings

- Basic Documents*, pp. 371-374. The entire WHO Framework Convention on Tobacco Control can be consulted in iCommons.
- Melissa E. Crow, “Smokescreens and State Responsibility: Using Human Rights Strategies to Promote Global Tobacco Control,” *Yale Journal of International Law*, vol. 29, No. 1, pp. 209-250.
- Carolyn Dresler and Stephen P. Marks, “The Emerging Human Right to Tobacco Control,” *Human Rights Quarterly*, vol. 28, No. 3, pp. 599-651 (2006)

Questions for Discussion

1. What are the human rights issues of importance in dealing with the health aspects of tobacco and to what extent does the FCTC address them?
2. What other behavioral issues in public health to which a human rights perspective might be of value?
3. What human rights, if any, concern the environment?

Session 13: Tuesday, December 12, 2006

Violence prevention and response: Case of violence against civilians in armed conflict

Guest: Sheri Fink, author of *The War Hospital*

Readings

- Perspectives*, pp. 355-365.
- Basic Documents*, pp.
- Case: *The War Hospital. A True Story of Surgery and Survival*

Questions for Discussion

1. What options are available to the international community in cases of mass violations of human rights occurring within a country unable or unwilling to prevent them?
2. How effective is international humanitarian law in protecting human rights during situations of armed conflict and humanitarian emergencies?
3. What other special human rights standards and mechanisms apply to the protection of populations from the effects of armed conflict?

Session 14: Thursday, December 14, 2006

Biotechnology and genetic manipulation: Case study: Hoodia Cactus

Readings

- Perspectives*, pp. 131-178.
- Basic Documents*, pp.
- Case study: Hoodia Cactus. (To be distributed.)

Questions for Discussion

1. What are the human rights that would be negatively affected if reproductive human cloning were allowed?
2. Is there an independent right to dignity?
3. Are human rights at all relevant to genetic manipulation and appropriation of technologies relating to plants?

Session 15: Tuesday, December 19, 2006

Economic development: community-based action for the right to health

Readings

- Basic Documents*, pp. .
- Perspectives*, pp. 71-116.
- Case study. (To be distributed.)

Questions for Discussion

1. What are the advantages and disadvantages of international organizations and governments' defining development to include social and "human" values in addition to economic criteria? Does such broadening dilute the conception of development, rendering policy decisions difficult?

2. What is meant by a “human rights–based approach to development”? How does it relate to other approaches to human rights in development?
3. What does the “right to health” mean in the context of access to health for poor populations in developing countries?

Session 16: Thursday December 21, 2006 (Final Class)

Torture prevention and treatment: Human rights norms and clinical practice

Guest: Michael Alan Grodin, MD, FAAP, is Director of the Law, Medicine and Ethics Program and Professor of Health Law, Pediatrics, Psychiatry, and Socio-Medical Sciences & Community Medicine at the Boston University Schools of Medicine and Public Health, Director, Boston Center for Refugee Health and Human Rights

Readings

- Basic Documents*, pp. 113-132
- British Medical Association, “Torture, Cruel and Degrading Treatment,” in *The Medical Profession and Human rights. Handbook for a Changing Agenda*, 2001, pp. 56-96 (To be distributed.)

Questions for Discussion

1. Is the definition of torture in human rights instruments accurate and appropriate from a public health perspective?
2. Is the prevention and punishment of torture a matter of medical ethics or of human rights?
3. How successful are the mechanisms that have been established to prevent torture?

Student presentations and course overview

For this session each student will make a five-minute presentation of the findings and conclusions of their paper. We will also review the main concepts of each of the sessions and conduct an evaluation. Preparation for this session will consist in reviewing the readings and class notes for the entire course and preparing questions and comments designed to clarify anything that remains unclear and to draw conclusions.