



GLOBAL HEALTH LAW

Summer 2011

Hamline University School of Law

Professor Katrina Pagonis

SYLLABUS

Contact Information

Office: 233 East Hall

E-mail: kpagonis01@gw.hamline.edu

Preferred phone: 612-293-5724

Class Meetings

Mon.- Thurs., June 20 – 23, 5:30 – 8:50 p.m., Room 4

Office Hours

4:45–5:15 p.m. *or by appointment*

I. INTRODUCTION & COURSE OBJECTIVES

Welcome to Global Health Law! Today, to be an effective advocate for health, lawyers, policy-makers, and providers need to understand the global nature of modern health threats and the ways in which international law could be used as a tool for improving the health of the world's population.

It is almost trite to note that health threats—from pandemic influenza and extremely drug resistant tuberculosis to sugar-laden beverages and tobacco—rapidly cross international borders, elevating health law to a global stage. We will begin by exploring the extent of the World Health Organization's powers in global health law. The two major treaties on health law—targeting pandemics and tobacco control—were negotiated under WHO auspices, and we will look at how their operation impacts pandemic preparedness and the dissemination of tobacco products.

We will then adopt a human rights focus, focusing on global health disparities. We will explore innovative ideas for using international human rights law or new global health treaties to secure the most basic needs of the poorest and most vulnerable among us. Lastly, we will track the global governance of human subjects research from the Nuremburg trials to today, focusing on the development of international legal norms in response to Nazi-era abuses and attempts to litigate modern abuses of foreign human subjects in US courts.

II. LOGISTICS

- A. **Time and Place.** This one-credit course will meet from **5:30-8:50pm** in **Law 4** from **Monday, June 20 to Thursday, June 23.**
- B. **Course Materials.** Course materials are available for purchase from the law school bookstore. There are two sets of course materials: (1) Global Health Law Treaties (which contains all the treaties we will be using in this class) and (2)

Global Health Law Reader (which contains the articles, book chapters, and other materials that will be assigned). The syllabus contains a list of readings for each class meeting. You should come to class ready to analyze and discuss the materials from the reader and prepared to apply the law in the treaties (i.e., you should know the basic structure and key provisions of the assigned treaties).

In addition, I may occasionally assign additional cases and articles, copies of which will be posted on TWEN and/or placed on reserve in the library (as indicated in the list of reading assignments).

Students are responsible for reading and analyzing all assigned course materials before each class.

- C. **TWEN Site.** Course documents, updated syllabi, and any powerpoints used in class will be posted on the class TWEN site. In addition, you are encouraged to participate in discussions of current events in global health law by posting to our news forum on TWEN.

III. COURSE REQUIREMENTS & POLICIES

A. **Attendance**

To obtain academic or CLE credit for this course, you must be present for all four class sessions.

B. **Preparedness & Participation**

Most class sessions will be based on lectures and class discussion of the issues raised by the lecture and readings. Class discussions showing rigorous thought and an informed understanding of the subject matter will be an integral part of the learning process. ***You must read all of the assigned materials before class to facilitate discussions.*** Everyone is expected to actively engage in class discussions, small group work, and simulations and should be sufficiently prepared to do so.

D. **Technology Policy**

Laptops: Students are expected to use technology in a professional and productive manner. The use of laptops in a manner that does not further our learning objectives or a manner that distracts others is strictly prohibited. **If a student uses technology in a way that distracts others, he or she may have his grade lowered by one-half of a letter; if the student does so again, he or she may be asked to drop the course without receiving academic credit for the class.**

IV. COURSE EVALUATION

A. **Choice of Exam or Paper**

Your grade for this course will be based on your performance on the final examination ***or, if you have obtained my prior approval (before the first class), your final paper.***

	Details	% of Final Grade
<i>Final Exam or Final Paper</i>	<p><i>Exam:</i></p> <ul style="list-style-type: none"> • Take Home (72 Hours), Anonymous • Distributed at our last class (6/23/2011) • Due 6/26/2011 at 8:30pm (central time) by TWEN submission <p><i>Paper:</i></p> <ul style="list-style-type: none"> • Only with prior approval (<i>before</i> first class) • 2,500 words (exclusive of footnotes), using <i>Bluebook</i> citation style for law review articles¹ • Due 7/7/2011 at 5:00pm (central time) by email at kpagonis01@hamline.edu 	80%
<i>Participation</i>	Based on quality, in-class participation that reflects engagement with the readings	20%

B. **Additional Information: Final Paper Option Only with Prior Approval**

If a student is interested in writing a final paper for this class in lieu of an examination, he or she ***must*** contact me before the first class and obtain my approval of the proposed topic. The paper must be an original, short, scholarly paper on a relevant subject in global health law (broadly construed). Though the requirement is only to produce a short paper, I will be happy to work with any interested student in writing a longer paper of sufficient quality that it can be published in a legal, medical, or health policy journal.

V. **INSTRUCTOR AVAILABILITY**

I want to be fully available to help students whenever they need assistance with the content and readings in the class.

I will hold ***office hours from 4:45-5:15 before each class***. I am ***also*** available to meet with students ***by appointment***. Feel free to come to office hours individually or with your study group.

VI. **FINAL THOUGHTS**

I am fascinated by the subject matter of this course and hope you will share my enthusiasm for the intellectually challenging ideas presented in the readings and the class work. I look forward to getting to know you and to our many thoughtful discussions. If I can ever be of assistance, please come by and see me at any mutually convenient time.

¹ If use of a different method of citation (e.g., AMA or *Chicago*) is justified based on the intended audience of the paper, an alternative citation style may be used *provided that* the student obtains my permission to do so.

COURSE SCHEDULE

Subject to Revision

June 20

(1) Introduction to Global Health Law

(2) Global Pandemic Response: From Cholera to SARS and Pandemic Influenza

After an initial overview of the course and explanation of class policies and expectations, we will delve into the definition and content of global health law. Our readings provide us with a working definition of global health law and a basic overview of key issues in the field. From there, we will begin exploring the oldest branch of global health law: pandemic response. The first major global health treaty was the International Sanitary Convention of 1892 negotiated in Venice, Italy. It was ratified by European states and addressed a single health threat—cholera. In the intervening 120 years, the international community has established the World Health Organization and, under its auspices, negotiated and revised the International Health Regulations (2005). The IHR, unlike the early sanitary conventions, takes an all-risks approach to pandemics and is a truly global agreement. We will discuss the negotiation of the 2005 revised IHR in the context of the SARS epidemic and the first test of the new IHR—H1N1 influenza.

Readings Treaties

- Constitution of the World Health Organization
- International Health Regulations (2005)

Reader: pp. 1-89

June 21

Moving Beyond Infectious Diseases: Global Tobacco Control

Global health law has today expanded beyond its traditional focus on infectious diseases to address chronic and noncommunicable diseases. This shift recognizes both the growing burden of noncommunicable diseases and an understanding that noncommunicable diseases can be “spread” internationally by products. The most notable example of global health law’s expansion is the Framework Convention on Tobacco Control, which entered into force in 2005. The FCTC is widely ratified with 172 states parties. We will discuss the development of the FCTC, its structure, and its content. We will then discuss some modern challenges to global tobacco control that are emerging from trade and investment treaties. Our first case study will focus on Philip Morris’ use of a bilateral investment treaty to challenge Uruguay’s tobacco laws. Next, we will talk about a pending challenge under international trade law to the United States’ regulation of flavored tobacco.

Readings Treaties

- Framework Convention on Tobacco Control
- Agreement between the Swiss Confederation and the Eastern Republic of Uruguay Relating to the Promotion and Reciprocal Protection of Investments
- GATT articles I, III, and XX
- TBT articles 2 & 12

Reader: pp. 91-164

June 22

Transnational Human Subjects Research

Now that we have studied the core global health law treaties (the WHO Charter, the IHR and the FCTC), we will discuss areas of global health law that are not fully regulated by treaties. In this class, we will focus on transnational human subjects research. More clinical research takes place abroad now than ever before, and modern research is more likely to be carried out by private corporations than states. This complicates the regulation of research. We will discuss the sources of international law governing human subjects research and their applicability to private-sector research. We will then move from the content of these rules to their enforcement, looking at attempts to use the Alien Tort Statute to obtain relief for research subjects who did not give informed consent for their participation. Lastly, we will address bigger questions about the distribution of the benefits of research, asking whether there is a legal or ethical obligation to ensure that drugs tested on the poorest among us be made available to these same communities.

Readings Treaties

- ICCPR arts. 2 & 7
- ICESCR, arts. 2 & 15

Reader: pp. 165-314

June 23

Health, Human Rights, and Social Justice in Global Health Law

In our last class, we will synthesize what we have learned about global health law and discuss the potential future of global health law as a tool for social justice. We will begin by looking at existing law on health and human rights, asking what the right to health truly entails. We will then look at options for future development, focusing on the optional protocol to the ICESCR, which may make the right to health more enforceable, and Larry Gostin's argument for a Framework Convention on Global Health. You should also recall Holliz & Pogge's proposal for a Health Impact Fund (discussed yesterday).

Readings Treaties

- WHO Constitution, preamble & art. 1
- ICESCR, arts. 1-15
- Optional Protocol to the ICESCR

Reader: pp. 315-465