

LAW 369 AIDS Law and Ethics Seminar
Georgetown University Law Center
Fall 2018
W 11:10am-1:10pm

Office hours: We are fully available to assist students with the course content and the research and writing component of the class. We are available to meet with students by appointment, to be arranged via email.

COURSE DESCRIPTION

Since the start of the global pandemic, more than 70 million people have been infected with HIV and about 35 million people have died. AIDS pandemic is perhaps the most widespread and devastating pandemic in the modern era. This course offers an in-depth exploration of the AIDS pandemic—examining the social, legal, political, and ethical controversies—both historical and contemporary. It covers both domestic and international law and policy. Throughout the class we will have guest lecturers who are among the leading experts in the field. The course is divided into several sections:

Section I: Life, Death, and the Architecture of the AIDS Response. This part provides an overview of the AIDS pandemic—starting with the history of the pandemic in the U.S. and globally, then exploring the core issues in HIV prevention and treatment, and concluding with two classes on the financing, institutions and architecture.

Section II: Fighting for Rights in the Streets and Courts. This part lays out the landscape for how the law has been, and is being, used as a tool for the AIDS response, including the rights of persons living with HIV/AIDS. It also examines the deep social mobilization that fueled transformations in research, policy, and rights.

Section III: Interventions, Survival, and Justice. This part takes a deeper dive into consequential contemporary legal, policy, and ethical issues behind the economics of AIDS treatment, scale up of programs for key affected populations, and the practice of AIDS law in the U.S. through access to benefits.

Section IV: The Way Forward. This part concludes with two classes that examine the rapidly shifting landscape in HIV technologies for treatment, testing, and public health surveillance of HIV in our contemporary context. The final class that brings the pieces together.

The AIDS pandemic has reached deeply into all major spheres of modern life—e.g., law, medicine, economics, and politics. The pandemic has transformed society and restructured ethical values. AIDS was, and is, vital to the human rights movement, nationally and internationally. This course provides an account of the major themes of the pandemic during the last three decades and offers an analysis of contemporary and future policy.

GENERAL COURSE INFORMATION

We have long been engaged in the subject of this course and hope that you share our enthusiasm for the intellectually challenging ideas presented by the HIV pandemic and the law and policy issues raised by the AIDS response. We look forward to getting to know you and to many thoughtful discussions.

Assessment Plan/Grading Rubric:

15% of your grade will be based on class participation. Class participation assessments are based on the quality, not merely quantity, of participation. For students taking the class for three credits, this mark includes the presentation of your paper. Attendance will be tracked using a sign-in sheet and instructors will track participation on a class-by-class basis.

85% of your grade will be based on your final written assignment. For students taking the class for two credits, this grade is based on your prompt-based paper final. For students taking the class for three credits, this grade is based on your final paper. Missed deadlines or incomplete assignments may also negatively impact this grade.

Late submissions of final written assignments or failure to comply with the minimum requirements outlined above will result in a grade reduction. The grade reduction for late submissions will be based on the lateness of the assignment. In relation to writing assignments, particularly for 3-credit students, we will follow the rules set by the registrar in terms of reviews and timing for drafts.

Textbooks and Other Course Materials:

Students are responsible for completing the reading prior to class. Some readings are listed on the syllabus, and these will be supplemented with additional readings throughout the semester. These additional readings will be announced at least one week in advance. These may include papers relevant to the class and more general perspectives on HIV and health law. The course textbook is available through the Law Center bookstore or online sellers such as Amazon.com: **Lawrence O. Gostin, The AIDS Pandemic, 2005**. Note, throughout the class this textbook will be heavily supplemented by other readings that bring the concepts from the book up to date with more recent reading.

Course Website/Canvas:

Course documents, notices, and readings will be posted on the class Canvas site. Please check Canvas often.

A. WRITTEN ASSIGNMENTS

i. Two-Credit Option

Students will write a paper based on a prompt given you by Prof. Gostin & Kavanagh in November. The papers will address legal and policy elements of the topic/theme chosen and should reflect a deep level of thought and consideration on the part of the student. Students should display elements of original thought and insight on the topics using a clear thesis which is well-supported and defended throughout the paper. Papers will be evaluated on the basis of using the law and legal analysis to assess an issue of public health importance. The paper should be 3,000 – 4,000 words in length (excluding footnotes) (approximately 15 double-spaced pages). Citations should be formatted according to the Bluebook, unless the student obtains instructor permission to use an alternative citation style. Students may choose to use either endnotes or footnotes. When grading the papers, points will be deducted for papers significantly over or under this word limit. While some external research may be necessary in order to effectively express thoughts and defend the thesis presented, this is not a research paper as such and students will be graded primarily on their depth of thought, ability to generate and defend a thesis relevant to the topics found within the class, and personal reflection on the take away messages within the class.

We will work with the class as a whole and with individual students to explain what the professors are looking for in terms of quality of thought and writing. Students must submit their reaction paper to the Office of the Registrar, in accordance with the Registrar’s requirements, by 5 p.m. on December 15. In addition, students must email a copy of their paper to Jingyi Xu (jx101@georgetown.edu) and CCing both the professors by 5 p.m. on Friday, December 15. The instructors will not grant time extensions except in emergency situations, as we have found that this is fairest to all students in the class.

ii. Three-Credit Option (satisfies the Writing Requirement)

Students will write a scholarly paper on a health law topic. Papers should have a central integrating argument, or thesis, which is systematically developed throughout. It is not sufficient to merely describe the existing literature. The paper should provide an assessment of the existing knowledge and meaningfully contribute to that knowledge through research and analysis. Papers are expected to be a minimum of 6,000 words (excluding footnotes), but also should not significantly exceed that length. Citations should be formatted according to the Bluebook, unless the student obtains instructor permission to use an alternative citation style. Students may choose to use either endnotes or footnotes. In addition to the final paper, students are required to submit a topic proposal, outline, and first draft, described below.

Please submit all assignments in Times New Roman, 12-pt font; double-spaced; and with numbered pages. Email a copy of the assignment to Jingyi Xu (jx101@georgetown.edu) and CCing both the professors by 5 p.m. on the deadline below.

It is important, and required, to follow a systematic process for development of a writing requirement (WR) paper—described below with clear **deadlines which must be adhered to**. This process includes submitting a thesis statement, outline, and first draft as well as the final paper. These requirements are fully set out by the registrar. For those students who would like additional guidance, the instructors are happy to send written information on developing scholarly papers, as well as to meet in person. Further assistance is also available through Georgetown Law’s Writing Center (writingcenter@law.georgetown.edu).

ITEM	DUE DATE	DESCRIPTION
Topic Proposal	September 26	A two-paragraph description of the topic statement. The topic should relate to health law, policy or ethics. Once approved, students are encouraged not to change their topic, although the arguments are expected to evolve. Both 2-credit and 3-credit students must submit a topic proposal.
Class Presentation	October 17- November 28	Class presentation on approved topic for 3-credit students only. Students will choose a date and then a lottery for any dates that more than one person requests.
Thesis and Outline	October 31	This thesis and outline is only required for 3-credit students and should be based on the student’s research. It should begin with a clear narrative of the student’s thesis—the original idea that the student wishes to present and the method of development. The outline should include the paper’s title, headings, and subheadings with sentence-length descriptions of the arguments made under each heading. These outlines allow the instructors

		to analyze the current state of the student's research, provide commentary and suggestions, and assist the student in organization, research, and writing.
First Draft	November 21	First drafts are only required for 3-credit students and should be substantially complete, rather than extended versions of the outline. These drafts should include complete discussions under all headings and subheadings and footnoting. These drafts allow the instructor to fully review the student's arguments and provide meaningful suggestions.
Final Paper	December 15	A paper of publishable quality, with a sharply stated thesis, well-organized presentation, and rigorous argumentation and evidence.

iii. Additional Details on Written Assignments (three-credit option)

Students must turn in a hard copy of their topic proposal, outline, and first draft at the beginning of class on the abovementioned days. In addition, they must email these documents to the professors and designated research fellow by 5 p.m. on each of the abovementioned days. The final paper must be submitted to the Office of the Registrar, in accordance with the Registrar's requirements, by 5 p.m. on December 15. In addition, students must email a copy of their final paper to **both** Prof. Gostin and Prof. Kavanagh by 5 p.m. on December 15. You will receive written feedback on your written assignments. We are also available to provide guidance during office hours.

Students can also take advantage of the Writing Center (<http://www.law.georgetown.edu/writingcenter/>) and may find the following library research guides useful:

- Topical listing of research guides:
<http://www.law.georgetown.edu/library/research/guides/index.cfm>
- Health law research guide:
<http://www.law.georgetown.edu/library/research/guides/health.cfm>
- Global health law research guide:
<http://www.law.georgetown.edu/library/research/guides/globalhealthlaw.cfm>

B. Student Presentations

i. Two-Credit Option.

Students taking the class for two credits will be expected to actively listen and ask incisive questions of the student presenters. Attendance and participation will be actively recorded, particularly on 3-credit student presentation days.

ii. Three-Credit Option.

Students taking the class for three credits will make a presentation on the topic of their paper to the class. Presentations should be thoughtful and well prepared. An imaginative method of presentation is strongly encouraged. Students who wish to use materials to facilitate discussion must email them one week prior to their presentation.

CLASSROOM POLICIES

Attendance and Class Participation:

Questions and comments demonstrating rigorous thought and an informed understanding of the subject matter are an integral part of the learning process. Accordingly, attendance and active participation in all class sessions is required. Please inform Jingyi Xu (jx101@georgetown.edu) as soon as possible if there is an exceptional circumstance conflicting with class attendance.

Laptop Policy:

Georgetown Law has no policy on laptop use in classrooms. We allow the use of laptops and other devices for note-taking in class with the assumption that students strictly may not use their devices for other purposes such as surfing the web or social media, particularly due to the nature of the course and the fact that many high-level guest speakers have taken time out of their schedules to attend our class sessions. Students, please do not use your laptops or smartphones for any purpose other than directly related to the session taking place in the classroom.

Course Recording Policy:

All classes will be recorded and all students will be granted access to all classroom recordings without restriction.

Syllabus Changes:

While the overall structure of the syllabus will remain the same, we expect that there will be periodic changes to reading assignments, guest speakers, and the class schedule throughout the course of the semester. Changes will be announced no later than one week in advance on the Canvas site. We appreciate your flexibility in accommodating these changes.

PLEASE NOTE: We will be adding a session for student presentations for those choosing the 3-credit option. Depending on the number of people who choose this option the syllabus below will change slightly and some readings will be reduced. Stay tuned.

Section I. Life, Death, and the Architecture of the AIDS Response		
Week 1 Aug 29	AIDS in the beginning Epidemiology of the Pandemic	<ul style="list-style-type: none">• Gostin, "Getting to Zero—Scientific Innovation, Social Mobilization, and Human Rights in the AIDS Pandemic," <i>Global Health Law</i>, p305-340.• Gostin, <i>The AIDS Pandemic</i>, Chapter 1• UNAIDS, Global AIDS Update 2018, Miles to Go: Closing gaps breaking barriers righting injustices (read Part I and skim the full report) available at: http://www.unaids.org/en/20180718_GR2018
Week 2 Sept 5	Access to treatment	<ul style="list-style-type: none">• Anne-Christine d'Adesky, <i>Moving Mountains: The Race To Treat Global AIDS</i>, Chapter 2 & 6• Matthew Kavanagh, et al. "Evolving human rights and the science of antiretroviral medicine." <i>Health and human rights</i> (2015).

		<ul style="list-style-type: none"> World Health Organization, Policy Brief: Updated recommendations on first-line and second-line antiretroviral regimens, only p 1-7
Week 3 Sept 12	HIV Prevention & Testing	<p>To familiarize yourself with the background please check out the AVAC introductory resources page here: https://www.avac.org/background-primers-and-fact-sheets where there are up-to-date two-page fact sheets on key issues. Read at least about PrEP (Pre-exposure Prophylaxis), Microbicides, Voluntary Medical Male Circumcision, and Vaccine.</p> <ul style="list-style-type: none"> Gostin, <i>The AIDS Pandemic</i>, Chapter 7, 8, 9 Benjamin Mason Meier, Kristen Nichole Brugh, and Yasmin Halima. "Conceptualizing a Human Right to Prevention in Global HIV/AIDS Policy." <i>Public Health Ethics</i> 5, no. 3 (2012): 263.
Week 4 Sept 19	The Financing, Institutions and Architecture of the AIDS Response: Global Guest Lecture <i>Dr. Jamila Headley, Health GAP (Global Access Project)</i>	<ul style="list-style-type: none"> Gostin, <i>The AIDS Pandemic</i>, Chapter 16 Gorik Ooms, Wim Van Damme, Brook K. Baker, Paul Zeitz, and Ted Schrecker. "The 'diagonal' approach to Global Fund financing: a cure for the broader malaise of health systems?." <i>Globalization and health</i> 4, no. 1 (2008): 6. UNAIDS, <i>Fast Track Resources</i> Le Gargasson, J. B., & Salomé, B. (2010). The role of innovative financing mechanisms for health. <i>World Health Report (2010), Background Paper, 12.</i>
Week 5 Sept 26	The Financing, Institutions and Architecture of the AIDS Response: U.S. Guest Lecture <i>Jeff Crowley, O'Neill Institute for National & Global Health Law</i>	<p>Please read the Kaiser Family Foundation website pieces on:</p> <ul style="list-style-type: none"> Basics of the U.S. epidemic: https://www.kff.org/hivaids/fact-sheet/the-hivaids-epidemic-in-the-united-states-the-basics/ Medicaid: https://www.kff.org/hivaids/fact-sheet/medicaid-and-hiv/ Medicare: https://www.kff.org/hivaids/fact-sheet/medicare-and-hiv/ The Affordable Care Act: https://www.kff.org/health-reform/issue-brief/insurance-coverage-changes-for-people-with-hiv-under-the-aca/ U.S. National AIDS Strategy: https://www.hiv.gov/federal-response/national-hiv-aids-strategy/nhas-update
Section II. Fighting for Rights in the Streets and Courts		
Week 6 Oct 3	Individual Rights & Freedoms Guest Lecture <i>Allan Maleche, Kenya Legal & Ethical Issues Network</i>	<ul style="list-style-type: none"> Gostin, <i>The AIDS Pandemic</i>, Chapter 3, 4, 5 and 10 UNAIDS, Global AIDS Update 2018, Miles to Go: Closing gaps breaking barriers righting injustices (Read chapter 8) Kenya High Court Decision on HIV Testing (read the decision & skim accompanying materials) http://www.kelinkkenya.org/uhuru-hiv-list-declared-unconstitutional/
Week 7 Oct 10	Positive rights with Teeth	<ul style="list-style-type: none"> United Nations Committee on Economic, Social and Cultural Rights, General Comment No. 14 (2000). The right to the highest attainable standard of health

		<ul style="list-style-type: none"> Decision: <i>TAC vs. Minister of Health</i> Matthew Kavanagh, "HIV/AIDS and the Politics of Litigation in South Africa and India." TBD on Medicaid rights
		Section III. Interventions, Survival, and Justice
Week 8 Oct 17	Intellectual property & access to medicines 3-Credit Student Presentation <hr/>	<ul style="list-style-type: none"> Anne-Christine d'Adesky, <i>Moving Mountains: The Race To Treat Global AIDS</i>, Chapter 4 't Hoen, Ellen. <i>Private Patents and Public Health: Changing Intellectual Property Rules for Access to Medicines</i>. Kapczynski, Amy. "Harmonization and Its Discontents: A Case Study of TRIPS Implementation in India's Pharmaceutical Sector." <i>California Law Review</i> 97 (2009): 1571.
Week 9 Oct 24	Key Populations I: LGBT/Sexuality and People Who Use Drugs 3-Credit Student Presentation <hr/>	<ul style="list-style-type: none"> Gostin, <i>The AIDS Pandemic</i>, Chapter 14, The Interconnected Epidemics of AIDS and Drug Dependency Chris Beyrer, Stefan D. Baral, Chris Collins, Eugene T. Richardson, Patrick S. Sullivan, Jorge Sanchez, Gift Trapence et al. "The global response to HIV in men who have sex with men." <i>The Lancet</i> 388, no. 10040 (2016): 198-206. Supreme Court of India, <i>Kaushal v. Naz Foundation</i>, 2013. Csete, Joanne, Adeeba Kamarulzaman, Michel Kazatchkine, Frederick Altice, Marek Balicki, Julia Buxton, Javier Cepeda et al. "Public health and international drug policy." <i>The Lancet</i> 387, no. 10026 (2016): 1427-1480. (SKIM, don't worry about the epidemiology)
Week 10 Oct 31	Key Populations II: Gender, Women & Girls, & Sex Work Guest Speaker: Beirne Roose-Snyder, Center for Health & Gender Equity (CHANGE) 3-Credit Student Presentation <hr/>	<ul style="list-style-type: none"> TO BE UPDATED Steen, Richard, Smarajit Jana, Sushena Reza-Paul, and Marlise Richter. "Trafficking, sex work, and HIV: efforts to resolve conflicts." <i>The Lancet</i> 385, no. 9963 (2015): 94-96. Csete, J., & Cohen, J. (2010). Health benefits of legal services for criminalized populations: the case of people who use drugs, sex workers and sexual and gender minorities. <i>The Journal of Law, Medicine & Ethics</i>, 38(4), 816-831.
Week 11 Nov 7	Domestic benefits law <i>Visit to Whitman Walker, lecture by person Amy Nelson, Legal Director</i>	Readings TBD

	Section IV. The Way Forward	
Week 12 Nov 14	Big data, new tech: ethics and human rights for contemporary times 3-Credit Student Presentation _____	<ul style="list-style-type: none"> • Matthew M. Kavanagh, Stefan D. Baral, Maureen Milanga, Jeremy Sugarman, “Biometrics, Public Health Surveillance, and Criminalized Populations: Policy, Ethics, and Human Rights Considerations” <i>Lancet HIV</i>, <i>Forthcoming</i>. • Jeffrey Crowley & Sean Bland, <i>Addressing Policy Barriers to Pre-Exposure Prophylaxis (PrEP) Uptake and Planning for Long-Acting Agents for Treatment and PrEP</i> (O’Neill Institute Report), 2018. • Jeffrey Crowley & Sean Bland, <i>TBD on Molecular HIV Surveillance</i>
Nov 21	-- NO CLASS THANKSGIVING--	
Week 13 Nov 28	Final class wrap up 3-Credit Student Presentation _____	