SYLLABUS

REALISING THE INTERNATIONAL RIGHT TO HEALTH

Course Description and Purpose

Taught by the former UN Special Rapporteur on Health and a practising Senior Council in the Supreme Court of India, Anand Grover, the practical challenges and experiences to realising the right to health will be delved into. Mr Grover will also discuss specific areas concerning access to the right to health upon which he has worked on extensively, in his Reports as the UN Special Rapporteur and his work as a lawyer-activist. The course will be taught in three modules-

1. **Introduction to key human rights treaties, the right to health framework and principles under international law**- This module will introduce students to the sources of international law and while focusing particularly on human rights treaties - UDHR, ICESCR and ICCPR which together comprise the international bill of human rights. Article 12 of the ICESCR establishes the right to health and the duties of State parties thereunder. The right to health framework as interpreted under General Comment No.14 will be the primary focus of this module.

2. **The HIV/AIDS movement and Vulnerable groups**- Through the lens of the HIV/AIDS epidemic and the historic global movement to secure rights for persons living with HIV, Mr. Grover will look at the application of the right to health framework versus the public health approach. The stigma attached to HIV led to the creation and reinforcement of criminalisation of activities of vulnerable and marginalised groups such as sex workers, the LGBT population and injecting drug users. Mr. Grover argues for the recognition of vulnerable groups and rights-based policy approaches to fulfilling their right to health.

3. **The impact of intellectual property rights on access to medicines, with a focus on free trade agreements** – The attempted harmonization of IPRs through the Trade Related Aspects of Intellectual Property Rights Agreement (TRIPS) had enormous consequences on access to affordable medicines, particularly in the developing world. The legally sanctioned monopolies conferred by patent rights on drugs allow patentees to charge monopolistic prices. Mr. Grover argues that increased competition with generic pharmaceuticals is the only sustainable way to guarantee affordable medicines. Free Trade Agreements and Bilateral Investment Treaties, are the new trade routes being used to push for protections beyond TRIPS which could further hamper access to affordable medicines thereby infringing on the right to health. Investor State Dispute Settlement mechanisms have also been invoked to challenge decisions on invalidation of patents by domestic courts or other policy decisions taken to protect public health. In this context, Mr. Grover will discuss the case of Eli Lilly and Company v. Government of Canada under the NAFTA and the Philip Morris decision by WTO DSU.
Anand Grover, Georgetown University Law Centre

Class engagement, debate and discussion will be encouraged throughout the course. Students will be asked to examine, reflect on, and critique public health and economic strategies through the right based approach to health.

Course No.-

Total Credits – 1 credit hour

Instructor – Anand Grover,
Former UN Special Rapporteur on the right of all persons to the highest attainable standard of physical and mental health,
Senior Advocate, Supreme Court of India,
Director, Lawyers Collective (HIV/AIDS Unit)

Semester – Fall 2016

Day and Time – Saturday, 1st October, Sunday, 2nd October, 10:00 am – 3:30 pm; Saturday, 8th November.

Classroom -

Class Attendance- Pursuant to the 201-2015 Georgetown Law Student Handbook of Academic Policies, “[r]egular and punctual attendance at all class sessions is required of each student…A student who, even though registered for a course, has not regularly attended, participated, or otherwise met class requirements may, at the professor’s option, be withdrawn, excluded from attending class sessions, excluded from sitting for a final examination or submitting a final paper (with the same consequences as a voluntary failure to appear for a final examination or submit a final paper), or receive a lowered grade in the course. Even if a student has passed all examinations, academic credit will not be awarded and no student will be advanced, nor will a degree be conferred, if attendance or participation is unsatisfactory.”

Specifically, barring extraordinary circumstances, attendance for all classes is mandatory.

Grade - Final grades will be awarded on the basis of a take-home essay of 2000-2500 words. No marks for class participation will be awarded for this course.
Day 1 (1 October 2016) Human rights treaties, the right to health under International law (Module1)

Reading Assignment

Compulsory


Optional

3. Summaries of the following cases may be read from any source, summaries provided are suggestive:
Day 2  (2 October 2016)  The HIV campaign, Vulnerable Groups and criminalisation (Module 2)

Reading Assignment (Compulsory)

1. Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2010) [A/HRC/14/20], pp. 4-22.

Optional reading

1. Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2011) [A/66/254].
2. Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2010) [A/65/255], pp. 8-16.
3. Summaries of the following cases may be read from any source, those provided in the course materials are suggestive:

Day 3 (8 October 2016) Intellectual property rights, Free Trade Agreements and ISDS-impact on the right to health and access to medicines

Reading Assignment (Compulsory)

2. Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2009) [A/HRC/11/12].
4. Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (2014) [A/HRC/69/299]
5. Baker BK (2016) Trans-Pacific Partnership Provisions in Intellectual Property, Transparency, and Investment Chapters Threaten Access to Medicines in the US and Elsewhere. PLoS Med 13(3): e1001970. doi:10.1371/journal.pmed.1001970 [Copyright: © 2016 Brook K. Baker. This is an open access article distributed under the terms of the Creative Commons Attribution License, which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited.]

Optional reading
5. Philip Morris v. Uruguay, DSU Award- July 2016, (ICSID Case No. ARB/10/7),
6. Eli Lilly v. Canada, NAFTA