

## EXCHANGING HEMISPHERES



**TEACHING PLAN:**  
**CONTEMPORARY ISSUES IN MEDICINE AND LAW**  
(Course Frequency: Once a day for 5 days = 1 WEEK COURSE)  
Learning Hours [Lectures]: 20h  
Seminars (study and reading hours): 12h  
Total Hours: 32h

### Course Team:

Prof. Dr. **Alessandro Palmieri** – University of Siena, Italy  
Prof. Dr. **Anna Rataj** – Jagiellonian University in Krakow, Poland  
Prof. Dr. **Marlena Jankowska Augustyn** – University of Silesia in Katowice, Poland  
Prof. Dr. **Pawel Kowalski** – SWPS University of Social Sciences and Humanities in Warsaw, Poland  
Prof. Dr. **Václav Šmejkal** – Skoda Auto University, Mladá Boleslav, Czech Republic  
**Wojciech Banczyk**, M.A. – University of Osnabrück, Germany.

Course Leader: Prof. Dr. **Jose Geraldo Romanello Bueno** (PPI), UPM, Brazil

### Mackenzie Presbyterian University – Civil Law Professor (resumé)

Graduated in MEDICINE by the Faculty of Medical Sciences of the State University of Campinas (UNICAMP, 1978-1983) and graduated in LAW by the Faculty of Law of the Pontifical Catholic University of Campinas (PUCCAMP, 1998-2002). Specialized in Gynecology and Obstetrics from the Faculty of Medical Sciences of the Pontifical Catholic University of São Paulo (PUC-SP, 1996-1998) and specialized in Civil Procedural Law (PUCCAMP, 2003-2004). He holds a master's degree in MEDICINE from the State University of Campinas (UNICAMP, 1988-1989), a master's degree in PHILOSOPHY from the Faculty of Philosophy of the Pontifical Catholic University of Campinas (PUCCAMP, 2004-2006) and a master's in law from the Methodist University of Piracicaba (UNIMEP, 2004 -2006). He holds a PhD in MEDICINE from the Faculty of Medical Sciences at the State University of Campinas (UNICAMP, 1990-1992) and a PhD in Law from the Faculty of Law of the Largo de São Francisco at the University of São Paulo (USP, 2017-2019). He is currently a professor of Civil Law at Universidade Presbiteriana Mackenzie (CCT-Campinas, 2010-present). He is a doctoral student in Philosophy (Pragmatism) at the Pontifical Catholic University of São Paulo (PUC-SP, 2018-2022) and a postdoctoral student in Civil Law at the



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Faculty of Law of Largo de São Francisco at the University of São Paulo (USP, 2020-2022). Teaches Civil Law and BioLaw.

### Course Language: English

### Course Description:

Classes will cover selected topics in health care law, public health law, and (especially) bioethics. Among the topics that may be covered are: informed consent, medical confidentiality (including issues pertaining to medical big data), the duty to treat, conscientious objection in health care, ownership and patenting of human tissue, organ donation and allocation, abortion, reproductive technologies, end of life decision-making, the definition of death, and mandatory testing for diseases and

The course will be run seminar style. Evaluation will be split between a participation grade and a research paper (maximum 8000 words in length) that may be turned in any time before February 15, 2021. The research paper should be related to a topic covered in the course. Students will be expected to participate each and every session, so the course is not a good fit for students uncomfortable speaking in class.

This is a fairly reading-intensive course. Students should expect 20-60 pages of reading a session (though much of it will not be cases).

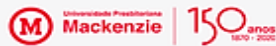
### *Aims*

- The general aim of this module is to cultivate a critical appreciation of the legal and ethical difficulties raised by modern medical practice. More specifically, the aims and objectives include the following:
- To examine the law's involvement with medicine.
- To explore how legal principles might be most effectively used in the medical sphere.
- To develop ethical and contextual awareness of selected medical topics.

### *Content*

- The emergence of medical law and its ethical context.
- Consent and refusal in the content of medical interventions.
- Selected topical issues in, for example, end of life decision-making, transplantation, reproductive medicine, and medical research.

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### ***Learning Outcomes***

Subject-specific Knowledge:

- Students should be able to:
- Demonstrate a sound understanding of existing Brazilian and European law and issues of ethical controversy in medical contexts.

Subject-specific Skills:

- Students should be able to:
- Apply the existing law to given hypothetical situations and advise accordingly.
- Analyse and evaluate the existing law in light of the legal, social, political and moral questions raised.
- Engage in informed debate concerning current proposals for reform.

Key Skills:

- Students should be able to:
- Demonstrate developed analytical and writing skills, including the ability to work independently and take responsibility for their own learning.

### ***Modes of Teaching, Learning and Assessment and how these contribute to the learning outcomes of the module***

- Lectures are used primarily to impart a framework of knowledge and to suggest approaches to evaluation and critical analysis;
- Tutorials will be used to develop and enhance student's capacity for legal problem solving in a particular factual situation, evaluative critical analysis and their appreciation of laws' linkage with broader fields of enquiry;
- Assignments (formative) are used to develop problem-solving skills or the ability to evaluate the law in a critical and contextual way.
- There will be no examination test, only a research paper at the end of the activities.
- Students will be supported and encouraged in the development of their research and writing skills.

**Target Audience:**



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Mackenzie Presbyterian University Law Students and Lawyers. It is opened, though, to anyone who want to participate. A basis of Civil Law and Criminal Law is recommended but, not a must.

### **Certificate of Participation:**

32-hour certificate: 20h of live interaction and 12h of study; 1 point in Academic Mobility (COI) programs for Mackenzie Presbyterian University students.

### **Class Schedule and Activities**

**DAY 1 (February 1<sup>st</sup>, 2020 - 09:00h – 11:00h – São Paulo Time):**

**Subject Matter: Introduction to Reproductive Rights**

**Prof. Dr. Anna Rataj (Jagiellonian University in Krakow, Poland)**

## **REPRODUCTIVE RIGHTS**

Are legal rights and freedoms relating to reproduction and reproductive health that vary amongst countries around the world. The World Health Organization defines reproductive rights as follows:

Reproductive rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. They also include the right of all to make decisions concerning reproduction free of discrimination, coercion and violence.

Women's reproductive rights may include some or all of the following: the right to legal and safe abortion; the right to birth control; freedom from coerced sterilization and contraception; the right to access good-quality reproductive healthcare; and the right to education and access in order to make free and informed reproductive choices. Reproductive rights may also include the right to receive education about sexually transmitted infections and other aspects of sexuality, right to menstrual health<sup>[4][5]</sup> and protection from practices such as female genital mutilation (FGM).

Reproductive rights began to develop as a subset of human rights at the United Nation's 1968 International Conference on Human Rights. The resulting non-binding Proclamation of Tehran was the first international document to recognize one of these rights when it stated that: "Parents have a basic human right to determine freely and responsibly the number and the spacing of their children. Women's sexual, gynecological, and mental health issues were not a priority of the United Nations until its Decade of Women (1975–1985) brought them to the forefront.<sup>[9]</sup> States, though, have been slow in incorporating these rights in internationally legally binding instruments. Thus, while some of these rights have already been recognized in hard law, that is, in legally binding international human rights instruments, others have been mentioned only in non binding recommendations and, therefore, have at best the status of soft law in international law, while a further group is yet to be accepted by the international community and therefore remains at the level of advocacy.

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Issues related to reproductive rights are some of the most vigorously contested rights' issues worldwide, regardless of the population's socioeconomic level, religion or culture.

The issue of reproductive rights is frequently presented as being of vital importance in discussions and articles by population concern organizations such as Population Matters. Reproductive rights are a subset of sexual and reproductive health and rights.

### **Required Reading:**

DINIZ, Maria Helena. *O Estado Atual do BioDireito*. 34 ed. São Paulo: Saraiva, 2020.

GARCIA, Maria; GAMBA, Juliane Caravieri; MONTAL, Zélia Cardoso. *Biodireito Constitucional: questões atuais*. São Paulo: Elsevier, 2010.

GIMENES, Antonio Cantero; BATISTA, Juliana dos Santos; FUJITA, Jorge Shiguemitsu; ROCHA, Renata. Dilemas Acerca da Vida Humana: interfaces entre a Bioética e o Biodireito. In: *Série Hospital do Coração - HCor*.

GUIMARÃES, Hélio Penna; BUCHPIGUEL, Carlos Alberto; ROMANO, Edson Renato; ANDRADE, Luiz Carlos Valente; BERWANGER, Otávio. São Paulo: Atheneu, 2015.

MALUF, Adriana Caldas do Rego Freitas Dabus. *Curso de Bioética e Biodireito*. 3 ed. São Paulo: Atlas, 2015.

MELO, Helena Pereira de. *Manual de Biodireito*. Coimbra: Almedina, 2008.

SANTOS, Maria Celeste Cordeiro Leite. *Biodireito: ciência da vida, os novos desafios*. São Paulo, RT, 2001.

### **Recommended Reading:**

BARILA, Yechiel Michael. *Human Dignity, Human Rights, and Responsibility: the new language of global bioethics and biolaw*. Cambridge: MIT Press, 2012.

COOK, Rebecca J.; DICKENS, Bernard M.; FATHALLA, Mahmoud F.

*Reproductive Health and Human Rights: Integrating Medicine, Ethics, and Law*. Oxford: Oxford Press, 2004.

RODOTÀ, Stefano & ZATTI, Paolo. *Trattato di BioDiritto*. Milano: Giuffrè, 2011.

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VALDÉS, Erick & LECAROS, Juan Alberto (editors). *Biolaw and Policy in the Twenty-First Century: building answers for new questions*. Zürich: Springer Switzerland, 2019.

### Class Schedule and Activities

**DAY 1 (February 1<sup>st</sup>, 2020 - 11:00h – 13:00h – São Paulo Time):**  
**Subject Matter: Surrogacy and Assisted Reproductive Technologies**  
**Prof. Dr. Anna Rataj (Jagiellonian University in Krakow, Poland)**

Surrogacy is an arrangement, often supported by a legal agreement, whereby a woman (the surrogate mother) agrees to bear a child for another person or persons, who will become the child's parent(s) after birth.

People may seek a surrogacy arrangement when pregnancy is medically impossible, when pregnancy risks are too dangerous for the intended mother, or when a single man or a male couple wish to have a child. Surrogacy is considered one of many assisted reproductive technologies.

In surrogacy arrangements, monetary compensation may or may not be involved. Receiving money for the arrangement is known as commercial surrogacy. The legality and cost of surrogacy varies widely between jurisdictions, sometimes resulting in problematic international or interstate surrogacy arrangements. Couples seeking a surrogacy arrangement in a country where it is banned sometimes travel to a jurisdiction that permits it. In some countries, surrogacy is legal only if money does not exchange hands. (See surrogacy laws by country and fertility tourism.)

Where commercial surrogacy is legal, couples may use the help of third-party agencies to assist in the process of surrogacy by finding a surrogate and arranging a surrogacy contract with her. These agencies often screen surrogates' psychological and other medical tests to ensure the best chance of healthy gestation and delivery. They also usually facilitate all legal matters concerning the intended parents and the surrogate.

### **Required Reading:**

DINIZ, Maria Helena. *O Estado Atual do BioDireito*. 34 ed. São Paulo: Saraiva, 2020.

GARCIA, Maria; GAMBA, Juliane Caravieri; MONTAL, Zélia Cardoso. *Biodireito Constitucional: questões atuais*. São Paulo: Elsevier, 2010.



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GIMENES, Antonio Cantero; BATISTA, Juliana dos Santos; FUJITA, Jorge Shiguemitsu; ROCHA, Renata. Dilemas Acerca da Vida Humana: interfaces entre a Bioética e o Biodireito. In: *Série Hospital do Coração - HCor*.

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MALUF, Adriana Caldas do Rego Freitas Dabus. *Curso de Bioética e Biodireito*. 3 ed. São Paulo: Atlas, 2015.

MELO, Helena Pereira de. *Manual de Biodireito*. Coimbra: Almedina, 2008.  
SANTOS, Maria Celeste Cordeiro Leite. *Biodireito: ciência da vida, os novos desafios*. São Paulo, RT, 2001.

### **Recommended Reading:**

FLOWERS, Victoria; CABEZA, Ruth; PIERROT, Eirwen. *Surrogacy: law and practice*. London: Family Law, 2018.

GERBER, Paula; O'Byrne, Katie. *Surrogacy, Law and Human Rights*. Abington: Routledge, 2015.

RODOTÀ, Stefano & ZATTI, Paolo. *Trattato di BioDiritto*. Milano: Giuffrè, 2011.  
VALDÉS, Erick & LECAROS, Juan Alberto (editors). *Bioworld and Policy in the Twenty-First Century: building answers for new questions*. Zürich: Springer Switzerland, 2019.

STARK, Barbara. Transnational Surrogacy and International Human Rights Law. 18 ILSA J. Int'l & Comp. L. 369 (2011-2012)

### **Class Schedule and Activities**

**DAY 2 (February 2<sup>nd</sup>, 2020 - 09:00h – 11:00h – São Paulo):**

**Subject Matter: Abortion and Law in Comparative Perspective**  
**Prof. Dr. Anna Rataj (Jagiellonian University in Krakow, Poland)**

**Abortion law** permits, prohibits, restricts, or otherwise regulates the availability of abortion. Abortion has been a controversial subject in many



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societies throughout history on religious, moral, ethical, practical, and political grounds. It has been banned frequently and otherwise limited by law. However, abortions continue to be common in many areas, even where they are illegal. According to the World Health Organization (WHO), abortion rates are similar in countries where the procedure is legal and in countries where it is not, due to unavailability of modern contraceptives in areas where abortion is illegal.

Also according to the WHO, the number of abortions worldwide is declining due to increased access to contraception. Almost two-thirds of the world's women currently reside in countries where abortion may be obtained on request for a broad range of social, economic, or personal reasons. Abortion laws vary widely by country. A few countries have banned abortions entirely.

### **Required Reading:**

DINIZ, Maria Helena. *O Estado Atual do BioDireito*. 34 ed. São Paulo: Saraiva, 2020.

GARCIA, Maria; GAMBA, Juliane Caravieri; MONTAL, Zélia Cardoso. *Biodireito Constitucional: questões atuais*. São Paulo: Elsevier, 2010.

GIMENES, Antonio Cantero; BATISTA, Juliana dos Santos; FUJITA, Jorge Shiguemitsu; ROCHA, Renata. Dilemas Acerca da Vida Humana: interfaces entre a Bioética e o Biodireito. In: *Série Hospital do Coração - HCor*. GUIMARÃES, Hélio Penna; BUCHPIGUEL, Carlos Alberto; ROMANO, Edson Renato; ANDRADE, Luiz Carlos Valente; BERWANGER, Otávio. São Paulo: Atheneu, 2015.

MALUF, Adriana Caldas do Rego Freitas Dabus. *Curso de Bioética e Biodireito*. 3 ed. São Paulo: Atlas, 2015.

MELO, Helena Pereira de. *Manual de Biodireito*. Coimbra: Almedina, 2008.

SANTOS, Maria Celeste Cordeiro Leite. *Biodireito: ciência da vida, os novos desafios*. São Paulo, RT, 2001.

### **Recommended Reading:**



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FINER, Louise & Fine, Johanna B. *Abortion Law Around the World: Progress and Pushback*. American Public Health Associations. March 08. New York, 2013.

BERER, Marge. *Abortion Law and Policy Around the World: in search of decriminalization*. *Health and Human Rights Journal*. Jun, 19(1): 13-27, 2017.

LATT, Su Mon. *Abortion laws reform may reduce maternal mortality: an ecological study in 162 countries*. *BMC Women's Health*. 19(1): 2019.

### Class Schedule and Activities

DAY 2 (February 2<sup>nd</sup>, 2020 - 11:00h-13:00h – São Paulo Time):

**Subject Matter: Wrongful birth, wrongful conception and wrongful life torts.**  
**Prof. Dr. Alessandro Palmieri (University of Siena, Italy)**

**Wrongful birth** is a legal cause of action in some **common law** countries in which the *parents* of a congenitally diseased child claim that their doctor failed to properly warn of their risk of conceiving or giving birth to a child with serious genetic or congenital abnormalities.<sup>[1]</sup> Thus, the plaintiffs claim, the defendant prevented them from making a truly informed decision as to whether or not to have the child. Wrongful birth is a type of medical malpractice tort. It is distinguished from **wrongful life**, in which the *child* sues the doctor.

**Wrongful life** is the name given to a **legal action** in which someone is sued by a severely **disabled** child (through the child's **legal guardian**) for failing to prevent the child's birth. Typically, a child and the child's parents will sue a **doctor** or a **hospital** for failing to provide information about the disability during the pregnancy, or a genetic disposition before the pregnancy. Had the mother been aware of this information, it is argued, she would have had an **abortion**, or chosen not to conceive at all.

**Wrongful abortion** refers to an **abortion** that a pregnant woman undergoes as a result of negligent or malicious conduct by a physician or health care provider.

### Required Reading:

DINIZ, Maria Helena. *O Estado Atual do BioDireito*. 34 ed. São Paulo: Saraiva, 2020.

GARCIA, Maria; GAMBA, Juliane Caravieri; MONTAL, Zélia Cardoso. *Biodireito Constitucional: questões atuais*. São Paulo: Elsevier, 2010.

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SANTOS, Maria Celeste Cordeiro Leite. *Biodireito: ciência da vida, os novos desafios*. São Paulo, RT, 2001.

### **Recommended Reading:**

BICKENBACH, Jerome. *Genetic Disability and Legal Action: wrongful birth, wrongful life*. New York: John Wiley & Sons, 2017.

PRIAULX, Nicolette. *The Harm Paradox: tort law and unwanted child in an era of choice*. Abingdon: Routledge, 2007.

SÕRITSA, Dina; LAHE, Janno. *The Possibility of Compensation for Damage in Cases of Wrongful Conception, Wrongful Birth and Wrongful Life: an Estonian perspective*. *European Journal of Health Law*. Vol.21, Issue 2, p. 141-160, 2014.

TODD, Stephen. *Wrongful Conception, Wrongful Birth and Wrongful Life*. Available in:

<<https://heinonline.org/HOL/LandingPage?handle=hein.journals/sydney27&div=33&id=&page=>>>. Accessed on: 30 nov. 2020.

### **Class Schedule and Activities**

**DAY 3 (February 3<sup>rd</sup>, 2020 - 09:00h – 11:00h – São Paulo Time):**  
**Subject Matter: Obstetric Violence in Comparative Aspects**  
**Prof. Dr. Marlena Jankowska (University of Silesia, Poland)**



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**Obstetric violence** is a specific type of violation of women's rights, including the rights to equality, freedom from discrimination, information, integrity, health, and reproductive autonomy. It occurs both in public and private medical practice during health care related to pregnancy, childbirth, and post-partum and is a multi-factorial context of institutional and gender violence.

Obstetric violence occurs at an intersection between Institutional violence and violence against women during pregnancy, childbirth and the post-partum period and it occurs both in public and private medical practice.

For too many women pregnancy is a period associated with suffering, humiliations, ill-health and even death. Unfortunately, obstetric violence is an often overlooked type of Violence Against Women.

### **Required Reading:**

DINIZ, Maria Helena. *O Estado Atual do BioDireito*. 34 ed. São Paulo: Saraiva, 2020.

GARCIA, Maria; GAMBA, Juliane Caravieri; MONTAL, Zélia Cardoso. *Biodireito Constitucional: questões atuais*. São Paulo: Elsevier, 2010.

GIMENES, Antonio Cantero; BATISTA, Juliana dos Santos; FUJITA, Jorge Shiguemitsu; ROCHA, Renata. Dilemas Acerca da Vida Humana: interfaces entre a Bioética e o Biodireito. In: *Série Hospital do Coração - HCor*.

GUIMARÃES, Hélio Penna; BUCHPIGUEL, Carlos Alberto; ROMANO, Edson Renato; ANDRADE, Luiz Carlos Valente; BERWANGER, Otávio. São Paulo: Atheneu, 2015.

MALUF, Adriana Caldas do Rego Freitas Dabus. *Curso de Bioética e Biodireito*. 3 ed. São Paulo: Atlas, 2015.

MELO, Helena Pereira de. *Manual de Biodireito*. Coimbra: Almedina, 2008.

SANTOS, Maria Celeste Cordeiro Leite. *Biodireito: ciência da vida, os novos desafios*. São Paulo, RT, 2001.

### **Recommended Reading:**



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BARCELO, Jeanice. *Birth Trauma and the Dark Side of Modern Medicine: exposing systematic violence during hospital birth and hijacking of human love*. New York: Kindle Direct, 2015.

CASTRO, Arachu. *Witnessing Obstetric Violence during Fieldwork: notes from Latin America*. *Health Hum Rights*, Jun; 21(1): 103-111, 2019.

DIAZ-TELLO, Farah. *Invisible Wounds: obstetric violence in the United States*. *Reproductive Health Matters*, 24:47, 56-64, 2016.

### Class Schedule and Activities

**DAY 3 (February 3<sup>rd</sup>, 2020 - 11:00h-13:00h – São Paulo Time):**

**Subject Matter: AIDS and legal aspects in EU**

**Prof. Dr. Marlena Jankowska (University of Silesia, Poland)**

**Human immunodeficiency virus infection and acquired immunodeficiency syndrome (HIV/AIDS)** is a spectrum of conditions caused by infection with the human immunodeficiency virus (HIV). Following initial infection a person may not notice any symptoms, or may experience a brief period of influenza-like illness. Typically, this is followed by a prolonged period with no symptoms. If the infection progresses, it interferes more with the immune system, increasing the risk of developing common infections such as tuberculosis, as well as other opportunistic infections, and tumors which are otherwise rare in people who have normal immune function. These late symptoms of infection are referred to as acquired immunodeficiency syndrome (AIDS). This stage is often also associated with unintended weight loss.

HIV is spread primarily by unprotected sex (including anal and oral sex), contaminated blood transfusions, hypodermic needles, and from mother to child during pregnancy, delivery, or breastfeeding. Some bodily fluids, such as saliva, sweat and tears, do not transmit the virus. HIV is a member of the group of viruses known as retroviruses.

The **AIDS Law Project in USA** is a nonprofit, public-interest law firm that provides free legal service to individuals living with and affected by HIV and AIDS. Founded in 1988, it is the only public interest law firm in the nation that is exclusively dedicated to helping those with HIV and AIDS.

### **Required Reading:**

DINIZ, Maria Helena. *O Estado Atual do BioDireito*. 34 ed. São Paulo: Saraiva, 2020.

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GARCIA, Maria; GAMBA, Juliane Caravieri; MONTAL, Zélia Cardoso. *Biodireito Constitucional: questões atuais*. São Paulo: Elsevier, 2010.

GIMENES, Antonio Cantero; BATISTA, Juliana dos Santos; FUJITA, Jorge Shiguemitsu; ROCHA, Renata. Dilemas Acerca da Vida Humana: interfaces entre a Bioética e o Biodireito. In: *Série Hospital do Coração - HCor*.

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MALUF, Adriana Caldas do Rego Freitas Dabus. *Curso de Bioética e Biodireito*. 3 ed. São Paulo: Atlas, 2015.

MELO, Helena Pereira de. *Manual de Biodireito*. Coimbra: Almedina, 2008.

SANTOS, Maria Celeste Cordeiro Leite. *Biodireito: ciência da vida, os novos desafios*. São Paulo, RT, 2001.

### **Recommended Reading:**

KOPP, C. *The New Era of AIDS: HIV and Medicine in Times of Transition*. New York: Springer, 2010.

PATTERSON, David & LONDON, Leslie. *International Law, Human Rights and HIV/AIDS*. Bulletin of the WHO, 80(12). Geneva: WHO, 2002.

### **Class Schedule and Activities**

**DAY 4 (February 4<sup>th</sup>, 2020 - 09:00h-11:00h – São Paulo Time):**

**Subject Matter: Euthanasia and Legal Aspects In EU**

**Prof. Dr. Pawel Kowalski (SWPS University, Warsaw, Poland)**

**Euthanasia** (from Greek: εὐθανασία; "good death": εὖ, *eu*; "well" or "good" + θάνατος, *thanatos*; "death") is the practice of intentionally ending a life to relieve pain and suffering.

Different countries have different euthanasia laws. The British House of Lords select committee on medical ethics defines euthanasia as "a deliberate intervention undertaken with the express intention of ending a life, to relieve intractable suffering". In



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the Netherlands and Belgium, euthanasia is understood as "termination of life by a doctor at the request of a patient". The Dutch law, however, does not use the term 'euthanasia' but includes the concept under the broader definition of "assisted suicide and termination of life on request".

Efforts to change government policies on euthanasia of humans in the 20th and 21st centuries have met limited success in Western countries. Human euthanasia policies have also been developed by a variety of NGOs, most notably medical associations and advocacy organizations.

As of March 2018, active human euthanasia is legal in the Netherlands, Belgium, Colombia and Canada. Assisted suicide is legal in Switzerland, Germany, the Australian state of Victoria and in the U.S. states of Washington, Oregon, Colorado, Hawaii, Vermont, Maine,<sup>[3]</sup> New Jersey, California, and in the District of Columbia.

### **Required Reading:**

DINIZ, Maria Helena. *O Estado Atual do BioDireito*. 34 ed. São Paulo: Saraiva, 2020.

GARCIA, Maria; GAMBA, Juliane Caravieri; MONTAL, Zélia Cardoso. *Biodireito Constitucional: questões atuais*. São Paulo: Elsevier, 2010.

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MELO, Helena Pereira de. *Manual de Biodireito*. Coimbra: Almedina, 2008.

SANTOS, Maria Celeste Cordeiro Leite. *Biodireito: ciência da vida, os novos desafios*. São Paulo, RT, 2001.

### **Recommended Reading:**

FREMGEN, Bonnie. *Medical Law and Ethics*. New York: Pearson, 2019.

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RISMAN, Brian. *Euthanasia and the Law: from the nazi era to modern pandemics*. New York: Kindle, 2020.

### Class Schedule and Activities

**DAY 4 (February 4<sup>th</sup>, 2020 - 11:00h-13:00h – São Paulo Time):**

**Subject Matter: Blood Transfusion in Jehovah's Witness and the Law**  
**Prof. Dr. Pawel Kowalski (SWPS University, Warsaw, Poland)**

**Jehovah's Witnesses** believe that the **Bible** prohibits Christians from accepting **blood transfusions**. Their literature states that, "'abstaining from ... blood' means not accepting blood transfusions and not donating or storing their own blood for transfusion." The belief is based on an interpretation of scripture that differs from other Christian denominations. It is one of the doctrines for which Jehovah's Witnesses are best known.

Jehovah's Witnesses' literature teaches that their refusal of transfusions of whole blood or its four primary components—red cells, white cells, platelets and plasma—is a non-negotiable religious stand and that those who respect life as a gift from **God** do not try to sustain life by taking in blood, even in an emergency. Witnesses are taught that the use of fractions such as **albumin**, **immunoglobulins** and **hemophiliac** preparations are not absolutely prohibited and are instead a matter of personal choice.

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DINIZ, Maria Helena. *O Estado Atual do BioDireito*. 34 ed. São Paulo: Saraiva, 2020.

GARCIA, Maria; GAMBA, Juliane Caravieri; MONTAL, Zélia Cardoso. *Biodireito Constitucional: questões atuais*. São Paulo: Elsevier, 2010.

GIMENES, Antonio Cantero; BATISTA, Juliana dos Santos; FUJITA, Jorge Shiguemitsu; ROCHA, Renata. Dilemas Acerca da Vida Humana: interfaces entre a Bioética e o Biodireito. In: *Série Hospital do Coração - HCor*.

GUIMARÃES, Hélio Penna; BUCHPIGUEL, Carlos Alberto; ROMANO, Edson Renato; ANDRADE, Luiz Carlos Valente; BERWANGER, Otávio. São Paulo: Atheneu, 2015.



## EXCHANGING HEMISPHERES



MALUF, Adriana Caldas do Rego Freitas Dabus. *Curso de Bioética e Biodireito*. 3 ed. São Paulo: Atlas, 2015.

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SANTOS, Maria Celeste Cordeiro Leite. *Biodireito: ciência da vida, os novos desafios*. São Paulo, RT, 2001.

### **Recommended Reading:**

RICHARDSON, Jame T. *The Rights of the Jehovah's Witnesses in Russia and Beyond: the role of the European Court of Human Rights*. The Journal of CESNUR, Volume 4, Issue 6, November-December 2020, p. 58-68.

LOIX, Sébastien; HENIN, Pierre; DESCAMPS, Olivier; REUSENS, Isabelle. *Jehovah's Witness and Transfusion: where do we stand in Europe?* ISBT Sciences Series. Vol. 15(2): 212-220, 2020.

BRACE, Tony. *Jehovah's Witness and the Law*. In: *Reactions to the Law by Minority Religions*. BARKER, Eileen & RICHARDSON, James T. Abingdon: Routledge, 2021.

### **Class Schedule and Activities**

**DAY 5 (February 5<sup>th</sup>, 2020 - 09:00h-11:00h – São Paulo Time):**

**Subject Matter: European Union Public Health Law and Policy and How COVID-19 Pandemic Pushed them Forward**

**Prof. Dr. Václav Smejkal (Skoda Auto University, Czech Republic)**

In response to the COVID-19 pandemic, national responses have been varied, and have included containment measures such as lockdowns, quarantines, and curfews. As of 10 December 2020, more than 69 million cases of COVID-19 have been reported in more than 191 countries and territories, resulting in more than 1.57 million deaths. More than 44.5 million people have recovered from the virus. The most affected countries in terms of confirmed cases are the United States, Brazil, India, Russia, South Africa, Peru, Mexico, Chile, the United Kingdom, and Iran.

The COVID-19 pandemic and its spread in Europe has had significant effects on some major EU members countries and on European Union institutions, especially in the areas of finance, civil liberties, and relations between member states.

### **Required Reading:**





## EXCHANGING HEMISPHERES



DINIZ, Maria Helena. *O Estado Atual do BioDireito*. 34 ed. São Paulo: Saraiva, 2020.

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SANTOS, Maria Celeste Cordeiro Leite. *Biodireito: ciência da vida, os novos desafios*. São Paulo, RT, 2001.

### **Recommended Reading:**

JOHNSON, Tana. *Ordinary Patterns in an Extraordinary Crisis: how international relations makes sense of the COVID-19 pandemic*. International Organization, First View, p. 1-21. Cambridge: Cambridge University, November, 2020.

NICOLA, Maria; SOHRABI, Catrin; MATHEW, Ginimol; KERWAN, Ahmed; AL-JABIR, Ahmed; GRIFFIN, Michelle; AGHA, Maliha; AGHA, Riaz. *Health Policy and Leadership Models during the COVID-19 Pandemic: a review*. International Journal of Surgery, (81)122-129, 2020.

TRUMP, Benjamin D & LINKOV, Igor. *Risk and resilience in the time of the COVID*. Environmental System and Decisions. (40) 171-173, 2020.



## EXCHANGING HEMISPHERES



**DAY 5 (February 5<sup>th</sup>, 2020 - 11:00h-13:00h – São Paulo Time):**  
**Subject Matter: The doctor's civil liability (medical malpractice) in the European Union Law**  
**Wojciech Banczyk, M.A. (University of Osnabrück, Germany)**

Although the laws of medical malpractice differ significantly between nations, as a broad general rule liability follows when a health care practitioner does not show a fair, reasonable and competent degree of skill when providing medical care to a patient. If a practitioner holds himself out as a specialist a higher degree of skill is required. Jurisdictions have also been increasingly receptive to claims based on informed consent, raised by patients who allege that they were not adequately informed of the risks of medical procedures before agreeing to treatment.<sup>[2]</sup>

As laws vary by jurisdiction, the specific professionals who may be targeted by a medical malpractice action will vary depending upon where the action is filed. Among professionals that may be potentially liable under medical malpractice laws are,

- Physicians, surgeons, psychiatrists and dentists.
- Nurses, midwives, nurse practitioners, and physician assistants.
- Allied health professionals - including physiotherapists, osteopaths, chiropractors, podiatrists, occupational therapists, social workers, psychologists, pharmacists, optometrists and medical radiation practitioners.

A **tort**, in common law jurisdiction, is a civil wrong (other than breach of contract) that causes a claimant to suffer loss or harm, resulting in legal liability for the person who commits the tortious act. It can include intentional infliction of emotional distress, negligence, financial losses, injuries, invasion of privacy, and many other things.

### **Required Reading:**

DINIZ, Maria Helena. *O Estado Atual do BioDireito*. 34 ed. São Paulo: Saraiva, 2020.

GARCIA, Maria; GAMBA, Juliane Caravieri; MONTAL, Zélia Cardoso. *Biodireito Constitucional: questões atuais*. São Paulo: Elsevier, 2010.

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### **Recommended Reading:**

LOMURRO, JONATHAN; RIVELES, Garry L. *New Jersey Medical Malpractice Law 2020*. New Jersey Law Journal, June 28, 2019.

KAZARIAN, Mélinée. Criminalising Medical Malpractice: a comparative perspective. In: *Reactions to the Law by Minority Religions*. BARKER, Eileen & RICHARDSON, James T. Abingdon: Routledge, 2021.

MONMOON, Nasima Talukder & Chowdhuy Such. Medical Negligence during the COVID-19. In: *Pandemic Outbreak is a Paramount Dispute of Health System*. Munich: GRIN Verlag, 2020.

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