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School of Social Work
SOWK/LAWS/SOCI 4703 – Social Justice and the Residual Welfare State,
Spring 2011

Time: Monday and Wednesday, 5:30 to 8:30 p.m.
Classroom: 3356 ME (Mackenzie)

COURSE DESCRIPTION

PURPOSE

SOWK / SOCI / LAWS 4703 (a cross-listed course) is one of very few courses specifically on social justice offered by any university. Large numbers of students – and practitioners – around the globe seek to advance the cause of social justice, but with only a hazy if not erroneous notion of what ‘social justice’ means. It is remarkable how often ‘social justice’ surfaces in political, academic, professional, religious, and everyday dialogue while being so imperfectly understood.

This course examines social justice and social policy in the context of natural and artificial human dependencies. It contrasts the difficult relationship between *redistributive* (social) justice and *retributive* (criminal) justice, recognising the pervasive tendency to criminalize, stigmatise, and marginalise the poor and the dependent. It explores how poverty and crime have always been connected – such as in the criminalisation of poverty (crime of pauperism), and stigma attached to social assistance, and over-representation of the poor in prisons. This is not, however, a course on criminal justice or the criminal code. It is primarily about the policies which, today at least, seek to protect the vulnerable in society. Thus, the course contrasts redistributive and retributive justice. This does not require any legal training, and in fact the course will not burden students with legal minutiae, but as a fourth year course, keen interest and an analytical mind are expected.

The range of possible and actual social protections is explored, with reference to obligations of levels of government to provide social protections, and considering the state’s fiduciary and protective roles in areas such as child welfare, health, and Aboriginal affairs. Indeed, what are the rights and entitlements of Canadians to social protections under the Constitution and the law? Central to this are historical intergovernmental tensions over fiscal and administrative responsibility in mainstream and Aboriginal social welfare. The course also ponders social protections in light of changing needs of communities for protection against adverse effects of market liberalisation. It asks how neo-Liberal economics, associated with ‘globalisation’, alters expectations of the role of state, province, municipality, family, individual, charity, and private enterprise towards the vulnerable and dependent.

The discussion examines in detail the statutory development of social protections and the growing role of the courts in defining policy. The role of community - legally recognised or otherwise - remains important in this evolution. It examines how, and why, social protections emerge and sometimes wither, and why governments avoid interventions in light of the growing role of the courts in defining, and striking down, social policy. This includes analysis of social protections in light of conflict between Charter and international social and economic legal commitments.

SOWK / SOCI / LAWS 4703 is intended for social work, sociology, and law students, but it will benefit anyone needing to understand the uneasy relationship between social protections and social justice in an increasingly residual Canadian welfare state.

OBJECTIVES

This course has four practical objectives. Students completing the course will:

- 1) Have gained a working knowledge of principles of social justice which they can apply in analysis of specific situations;
- 2) Understand the evolution of sense of social justice, with special reference to the development of Canadian social protections and the major social justice debates in Canada;
- 3) Have a grasp of the basic parameters in which social justice in Canada is framed, including statutes providing social protections, the Constitution, the Common Law, trade agreements such as NAFTA and GATT/WHO, rights conventions, and role of the courts in making or striking down social policy; and
- 4) Understand the economics of federal-provincial relations, in so far as these shape, allow, and constrain social protections and correspondingly social justice in Canada.

LEARNING CONTRACT

A course outline is a learning contract between student and instructor. It is considered inappropriate to sign up for a particular course and section, and then complain about things in the Outline such as due dates, assignments, and so on. Please look at the course due dates and satisfy yourself that there are no irreconcilable conflicts such as planned surgery or travel. The learning contract is a two-way street. In return for your respect and diligence, your Instructor will work hard to impart the maximum of knowledge with the maximum of fairness to all students. He will make the classes and the course work particularly relevant and interesting. He will offer assistance including through e-mail, telephone, and office hours. You will find that the assistance offered is considerable. There will be as much class discussion as possible. Finally, in order to be fair and to allow hard-working students to do well, he will make clear to students what is needed in order to earn a good grade.

COURSE COMMUNICATIONS AND COURTESIES

Course Communications. Apart from meetings and telephone discussions, the students, Instructor, and any teaching assistants will communicate with one another through Carleton's web-based resources. Please ensure that you have a Carleton Connect computing account, and access to web tools, and that you know how to use these things. The Course Outline, the bi-weekly PowerPoint presentations, and other documents will be posted for you to download from WebCT. You will need to check WebCT and your Carleton e-mail daily during this condensed spring course.

If you customarily use your own computer, with a private ISP, please set your Carleton account to rebroadcast course messages to this account. **Do NOT e-mail the Instructor from your personal account.** Use WebCT otherwise communications will become impossibly complicated.

Classroom Courtesies. Paying tuition means that students want productive and uninterrupted classes. If you must talk in class, whisper or pass a note. Please turn off cell phones, pagers, e-mail devices and so on. No recording devices unless you have a disability and permission. **Computers are NOT allowed** unless you have a disability requiring a computer. There is little point because you will receive a copy of the extensive PowerPoint presentation for each class, after the class. Jotting down questions and occasional points will suffice – sit back and enjoy the lecture and discussion. Feel free to quietly eat or drink during class. Given the class times you may wish to bring your supper; there is probably no restaurant open on campus. If you expect an urgent phone call, and may have to leave, please set the phone to vibrate (not ring) and sit by the door.

Questions and comments about the topics are encouraged. Feel free to ask a question whenever something does not make sense to you, but remember that time will also be allotted for questions.

READING MATERIAL

PowerPoint Presentations

The classes will be structured around detailed PowerPoint presentations. These are considered readings for purposes of the quiz. Students will find these to be excellent study aids and sources of information which supplement the required readings. An electronic copy of each presentation will be made available *after the class*. The presentations are provided on the understanding that they do not circulate beyond the class membership.

Weekly Readings

See the section OUTLINE OF SESSIONS for the required class readings. These vary in length and intensity. On average, every week there is a double load of readings owing to two classes being held! Because this is a condensed course, please look over ALL the readings in the first week and budget your time so they will be read before the applicable classes. **It is most unlikely you can catch up on the readings all at once. If you try this you will probably do poorly in the course.** Following the Instructor's schedule will give you some classes with light readings, providing well-deserved breaks.

A Course Pack will be available from Octopus Books on Bank Street. Many of the readings are in electronic form which is free. There is also no text book to buy, mainly because there is no decent text on social justice and the law.

All of the required weekly readings, which are not available online or from the Instructor, will be placed on reserve in the Carleton Library. When possible photocopies will be deposited in a file folder for your convenience. This makes it easier for you to make photocopies if necessary, subject of course to copyright rules. It may be necessary to reserve a few readings as books rather than as copies.

On-line Supplementary Readings and Assignment / Paper Resources

The on-line research resources below comprise a number of classic works and key sources for further study and perhaps for your paper.

Constitution Acts 1867 to 1982. http://laws.justice.gc.ca/en/const/PRINT_E.pdf. This is a comprehensive .pdf file which is readily keyword-searched for things such as the social insurance or pension amendments. An excellent resource.

Charter of Rights and Freedoms. Online at: http://laws.justice.gc.ca/en/charter/CHART_E.pdf. This is a .pdf document suitable for printing.

Public History Inc., 2004. *A Select and Annotated Bibliography Regarding Bill C-31, Indian Registration and Band Membership, Aboriginal Identity, Women and Gender Issues.* Formerly online at INAC website but removed. Instructor can provide if requested.

Backhouse, Constance, 2001. *The Historical Construction of Racial Identity and Implications for Reconciliation.* <http://canada.metropolis.net/EVENTS/ethnocultural/publications/historical.pdf>. This paper provides a thorough grounding in how race identity, as determined by the law, has factored into preferential and discriminatory treatment in Canada.

Guide to Making Federal Acts and Regulations. <http://www.pco-bcp.gc.ca/index.asp?lang=eng&page=information&sub=publications&doc=legislation/table-eng.htm>. This is a federal guide about how to draft a statute or regulation. It contains a wealth of background information about how the federal government determines the need for the legislation and actually composes the act. Worth looking at if you are contemplating a career in policy.

Federal regulations are published in *Canada Gazette*, available online at: <http://canadagazette.gc.ca/index-eng.html>. Each province or territory has its own gazette as well.

The full text of the monumental *Canadian Labour Code* can be found at this website: <http://laws.justice.gc.ca/en/ShowTdm/cs/L-2>. This is the 'rock' of labour legislation in Canada.

Some students will likely have a special interest in the social justice implications of Canada's immigration and refugee policies. The *Immigration and Refugee Protection Act* can be found here: <http://laws.justice.gc.ca/en/ShowTdm/cs/I-2.5>. It is hard to contemplate social justice in the international context without understanding that legislation exists to (supposedly) check against the most outrageous persecution; e.g. *Crimes Against Humanity and War Crimes Act* (<http://laws.justice.gc.ca/en/showtdm/cs/C-45.9>).

Canada's main country-specific trade agreements (NAFTA, Canada-Chile Free Trade Agreement, and Canada-Israel Free Trade Agreement). Are available online at: <http://cbsa-asfc.gc.ca/trade-commerce/ta-ac-eng.html>.

The website of the National Law Centre for Inter-America Free Trade has a superb database of international trade agreements. Many including NAFTA are available for free downloading at

<http://www.natlaw.com/treaties.htm>, but this site charges you to access some others, some of which can be had free from elsewhere.

The website of the Office of the United States Trade Representative (http://www.ustr.gov/Trade_Agreements/Section_Index.html) is a most useful portal to many major global free trade agreements and contextual information, and a link to the World Trade Organisation's main agreements.

Students interested in how international treaties are interpreted should consult the International Law Commission's Vienna Convention on the Law of Treaties, 27 January 1980, at: <http://natlaw.com/treaties/global/global55.htm>.

The Library of Parliament document *International Treaties: Canadian Practice* (by Daniel Dupras, Law and Government Division, 3 April 2000) provides an excellent introduction to how treaties are signed and how they are binding in a jurisdictional sense. Available online at: <http://dsp-psd.pwgsc.gc.ca/Collection-R/LoPBdP/BP/prb0004-e.htm>. Most of Canada's current international treaties are listed in Appendix B (List of International Agreements Tabled in the House of Commons since 1966).

The Library of Parliament document *Aboriginal People: History of Discriminatory Laws*. (by Wendy Moss and Elaine Gardner-O'Toole, Law and Government Division, November 1987 and revised November 1991) offers a very good potted history of the link between Aboriginal people and discriminatory statutes. Available online at: <http://dsp-psd.pwgsc.gc.ca/Collection-R/LoPBdP/BP/bp175-e.htm>.

Students interested in development of mainstream and Aboriginal social welfare in Quebec will enjoy pp. 173 to 198 of Torrie, J., Bobet, E., Kishchuk, N. and A. Webster, 2005. *The Evolution of Health Status and Health Determinants in the Cree Region (Eeyou Istchee): Eastmain 1-A Powerhouse and Rupert Diversion Sectoral Report Volume 2: Detailed Analysis*. Montreal: Cree Board of Health and Social Services of James Bay. Volume 1 of the report is available online at: <http://www.creehealth.org/ojs/index.php/cree/article/viewFile/84/80>. The Instructor can provide the larger Vol 2 since the link appears broken. This massive report remains, so far, the most thorough impacts analysis of economic developments upon the health of a northern and/or Aboriginal population. Moreover, it raises many questions about where one can find social justice in mega-developments with social benefits but human costs also.

The Canadian Legal Information Institute (CanLII) offers an excellent search engine for federal and provincial statutes and regulations, and court and tribunal decisions relating thereto. From <http://www.canlii.org/en/index.html> you can select a database and search for just what you want. It takes you to statutes, bills, government justice sites, decisions of courts and tribunals, and many other data sources. In particular you can search for judgements on criminal matters by jurisdiction and court. This site contains information on criminal *and* civil courts and cases, particularly appeals, so take note of this difference. An interesting and recent example of criminal appeal (Ontario Court of Appeal, *R. v. Vinoharan*, 2007 ONCJ 586 (CanLII)) can be found here: <http://www.canlii.org/en/on/oncj/doc/2007/2007oncj586/2007oncj586.html>. Note that criminal cases customarily are between "R" and a person accused or convicted, where "R" means "Regina", a short form for "Her Majesty The Queen". Civil cases involve "R" or H.M. The Queen" only when Her Majesty is being sued or doing the suing. Civil cases carry the names of the parties involved, usually individuals or organisations (e.g., *Beaulieu v. McClelland*, 2007 ONCJ 585 (CanLII)).

The federal Justice Department website contains the full text of all statutes (and regulations relating thereto) including those connected with criminal justice. (BTW – Provincial departments offer online access to provincial legislation.) We cannot discuss social justice without occasional reference to the *Criminal Code*, which frequently criminalises the behaviours and categories of marginalised groups of people (*Criminal Code* <http://laws.justice.gc.ca/en/showtdm/cs/C-46>).

The federal Justice website's search engine also reveals the myriad of connections between different federal acts. For instance, when "parole" is typed in, it returns links to all statutes somehow concerned with parole of convicted criminals. What is more, "parole" is highlighted in the text of all of the following statutes: *Access to Information Act*, *Corrections and Conditional Release Act*, *Crimes against Humanity and War Crimes Act*, *Criminal Code*, *Criminal Records Act*, *Financial Administration Act*, *Geneva Conventions Act*, *Canadian Human Rights Act*, *International Transfer of Offenders Act*, *National Defence Act*, *Prisons and Reformatories Act*, *Privacy Act*, *Department of Public Safety and Emergency Preparedness Act*, *Public Sector Compensation Act*, *Transfer of Offenders Act*, and *Youth Criminal Justice Act*.

You can cross-search social welfare statutes exactly the same way, and you may be surprised for instance at where and how often "pension" is found!

The Library of Parliament maintains a comprehensive library for Members of Parliament. It also operates a research service which provides custom research, and occasional publications, for specific MPs and for the House. Its online publications, which include many of interest to criminology students, are at: <http://dsp-psd.pwgsc.gc.ca/Collection-R/LoPBdP/mat-e.html#5#5>

Persons working in areas connected with social justice generally take a keen interest in emerging, prevailing, and waning social perspectives as described, and influenced by, the mass media. It is possible to purchase subscriptions to media abstract services. Government departments use these services frequently. However, for our purposes it is prudent to periodically scan the main online sources of public news reporting. The CBC (www.cbc.ca) is one of the more credible media sources. It has a search engine and archive of reporting going back many years. The same can be said of the Globe and Mail (www.globeandmail.com), which charges for access to older articles.

The lead national agency which collects and analyses social and criminal statistics is Statistics Canada, whose home page is at: <http://www.statcan.ca/menu-en.htm>. The search engine is outstanding. It will take you to crime and justice topics common and obscure, and bring you to issues of StatCan's statistical highlights report called *The Daily*.

Juristat (<http://dsp-psd.pwgsc.gc.ca/Collection-R/Statcan/85-002-XIE/85-002-XIE.html>) is a series of StatCan reports giving statistics and analysis on various topics and issues regarding the justice system in Canada. Annual *Juristats* are produced in the these areas: crime statistics, homicide, impaired driving, justice system resources and expenditures, youth court statistics, youth custody and probation and corrections statistics. Other *Juristats* are released on current topics. *Juristat* is not strictly about crime stats such as homicide rate and victimisation (which nonetheless all have a social dimension). *Juristat* also includes statistical reports on matters relating to social protections; e.g. Vol. 27 No. 4 is "Canada's Shelters for Abused Women, 2005/2006".

Printed Supplementary Readings

Abbott, F.H., 1915. *The Administration of Indian Affairs in Canada: Report of an Investigation Made in 1914 under the Direction of the Board of Indian Commissioners*. Washington. This

now-obscure text is a remarkable description of the policies and machinery used, at the height of the old Indian Policy, to forcibly civilise and assimilate Indians in Canada. The US delegation was suitably impressed with the Canadian strong-arm approach.

de Schweinitz, K., 1943. *England's Road to Social Security, From the Statute of Labourers in 1349 to the Beveridge Report of 1942*. New York: A.S. Barnes & Co. Inc. This is the classic modern work on the historical roots of the British welfare state upon which the Canadian welfare state was principled.

Guest, D., 1980. *The Emergence of Social Security in Canada*. Vancouver: UBC Press. This classic tome covers the Canadian context in great detail (de Schweinitz lacks this). Guest discusses the development of all main items of Canadian social legislation until just before 1984 when the final piece of the puzzle (*Canada Health Act*) was put in place, a decade before the whole system began to unravel.

O'Grady, W., 2007. *Crime in Canadian Context: Debates and Controversies*. Don Mills, ON: Oxford University Press. This is an excellent primer for those interested in exploring, in greater detail, issues in criminal justice in Canada today. O'Grady provides is quite aware of the connections between crime and social determinants such as income, education, and class. This makes his text an 'easy' and thought-provoking counterbalance to our discussion on social or redistributive justice.

Osborne, R.J., 1970. *Soviet Social Policies: Welfare, Equality and Community*. Homewood, Illinois: Dorsey Press. This book essentially criticises the Soviet constitution and state as being social justice frauds in light of the real priorities of the ruling Communist Party as evidenced by major policy and spending priorities.

Hugh Shewell, 2004. *Enough to Keep Them Alive': Indian Welfare in Canada, 1873–1965*. Toronto: University of Toronto Press. A splendid, definitive work on this topic.

Starr, P., 1989. "The Meaning of Privatisation". Chap. 1 in Kamerman, S.B. and A.J. Kahn (eds.), *Privatization and the Welfare State*. Princeton, N.J.: Princeton University Press. This paper and indeed the book is a useful resource for students interested in how social justice is helped or hindered by privatisation of human services.

Strong, M.K., 1930. *Public Welfare Administration in Canada*. Chicago: University of Chicago Press. A classic study of public welfare in Canada up to 1930.

Wallace, M.E., 1950. *The Changing Canadian State: A Study of the Changing Conception of the State as Revealed in Canadian Social Legislation, 1867-1948*. Columbia University PhD dissertation. This is a classic reference for students seeking an analysis of how changing social views led to the reluctant establishment of an elementary grid of social programmes in the years before the Canadian welfare state became fully established. Her discussion of the welfare responsibilities suggested in the Constitution is excellent.

Webster, A., 1993. *The Political Economy of Indian Relief in the Territorial North, 1927 to 1993*. Carleton MSW thesis. In Library but see Instructor if there is difficulty in obtaining. This analyses how the welfare state evolved without Indians until after WWII; i.e., Indians and Eskimos were specifically excluded from the 1927 *Old Age Pension Act*. The use of social benefits as reward and sanction for approved behaviour is explained – an inconceivable social justice affront in modern day Canada.

“The Legal Status of the Individual in the USSR”. Chapter IV of Grigoryan, L. and Y. Dolgopovolov (eds.), 1971. *Fundamentals of Soviet State Law*. Moscow: Progress Publishers. This chapter provides a good (albeit pro-Soviet) discussion on the legal status of the individual’s rights in society and a good picture of that well-intended but misguided attempt to achieve Utopian social justice, the Soviet Constitution. The discourse on the relationship between citizenship and social rights is instructive.

Students interested in the historical development of the welfare state in Canada would do well to know that there are 3299 references to it in Allan Moscovitch’s 1983 *The Welfare State in Canada: A Selected Bibliography 1840 to 1978*. Waterloo: Wilfred Laurier Press.

Probably the most thorough work on justice and health care in Canada today is Flood, C.M., Roach, K., and L. Sossin, 2005 (eds.). *Access to Care, Access to Justice*. Toronto: University of Toronto Press.

SCHEDULE OF SESSIONS

IMPORTANT:

- It is normal that, when discussion becomes lively, we may have to catch up during the next class. The lectures are planned with this in mind.
- If possible a guest speaker will participate in Class #7 on Aboriginal Peoples and Social Justice. We may have to change the date of this class to accommodate this person’s availabilities.
- Class #11 will be on Social Justice and Organised Labour unless students indicate a different preference at the beginning of the course.

Class #1 (Monday 9 May)	Introduction to the Course and Basic Terminology.
Class #2 (Wednesday 11 May)	Changing Notions of Social Justice.
Class #3 (Monday 16 May)	Responsibility for Social Justice in Canada.
Class #4 (Wednesday 18 May)	Development of Social Protections in Canada (1).
HOLIDAY (Monday 23 May)	Victoria Day – NO CLASS
Class #5 (Wednesday 25 May)	Development of Social Protections in Canada (2).
Class #6 (Monday 30 May)	Social Justice, Crime, and Social Exclusion.
Class #7 (Wednesday 1 June)	Not my Problem: Social Justice and Aboriginal People.
	<u>Notes:</u> (1) Assignment is due in class.
	(2) Date is flexible if a guest speaker is available.
Class #8 (Monday 6 June)	Globalisation and Social Justice.

- Class #9 (Wednesday 8 June) **Social Justice and the Privatisation Debate (1).**
- Class #10 (Monday 13 June) **Social Justice and the Privatisation Debate (2).**
- Class #11 (Wednesday 15 June) **TENTATIVE TOPIC: Social Justice and Organised Labour.**
- Notes: (1) A different topic, relevant to the theme of the course, is possible if students indicate a preference at the beginning of the course.
- (2) The quiz will be written in class.
- Class #12 (Monday 20 June) **Social Justice and the Fiduciary Role of the State with Special Emphasis on Child Welfare.**
- Note: (1) Analytical paper is due in class.
- (2) Pot luck.

OUTLINE OF SESSIONS

Class #1 (Mon. 9 May) – Introduction to the Course and Basic Terminology.

The first class provides an introduction to the topic and the evaluation system for the grade. Basic concepts are introduced including the notion of the ‘residual welfare state’.

Required Readings:

None for the first class.

Class #2 (Wed. 11 May) – Changing Concepts of Social Justice.

This class examines the historical development of the concept of social justice, from ancient times to the first proper political-academic discourse on social justice as a cogent topic (Taparelli, writings 1840s-1850s) to John Rawls (1970s-1990s) and Friedrich Hayek (1940s-1990s). The discussion will include an overview of the ideological notions prevalent in Canada about the role of state, community, family, and individual in social justice. We shall also introduce social justice in the international context.

Required Readings:

Wikipedia sometimes has poorly written or misleading, content. Anyone trying to craft a 4703 paper from it will end up in trouble due to these deficiencies alone. However, there are no general topic text books on social justice, so read the excellent Wikipedia article on John Rawls at: http://en.wikipedia.org/wiki/John_Rawls. Then use the links to read the article “A Theory of Justice”. These pages will identify the major works of Rawls, which you can find in the Carleton library if you develop a special interest.

Ditto, read the article on Friedrich Hayek (http://en.wikipedia.org/wiki/Friedrich_Hayek), again understanding that it is an overview and **you should not quote Wikipedia** in your paper.

Surprisingly little that is concise and accurate has been written on the general concept of social justice. Read the Wikipedia article “Social Justice” at:
http://en.wikipedia.org/wiki/Social_justice.

Read through the translated Magna Carta of 1215 (<http://www.magnacartaplus.org/magnacarta/>) with special attention to paras 1, 8, 9, 18, 20, 38, 39, 40, 45, and 54.

“Social Welfare: Ideals and Context”, Chap. 1 of Armitage, A., 2003. *Social Welfare in Canada*. Fourth Ed. Toronto: Oxford University Press.

Class #3 (Mon. 16 May) - Responsibility for Social Justice in Canada.

This class examines the constitutional roles of various players in Canada with respect to social justice. The division of federal and provincial responsibilities is discussed along with ideological views on the responsibility of the state to intervene to ensure public welfare. It examines what the *Constitution Act* (1982) says about the division of federal and provincial powers with specific reference to the functions of the *BNA Act* and its recent add-on, the Charter of Rights and Freedoms. Understanding this division is vital because governments are concerned with social justice mainly to the extent of their jurisdiction; i.e., their legal ability to do anything about it, including their ability to legally generate monies to pay for social measures. This class also discusses the increasing importance of the courts in making social policy, especially now that the Charter has give a benchmark against which laws and policies can be tested.

Required Readings:

Chap. 2 of Wallace, M.E., 1950. *The Changing Canadian State: A Study of the Changing Conception of the State as Revealed in Canadian Social Legislation, 1867-1948*. Columbia University PhD dissertation.

A hypertext version of the *Constitution Act* (1867) and the *Constitution Act* (1982) is available at: <http://laws.justice.gc.ca/en/const/index.html>. This is a particularly easy-to-follow presentation. Familiarise yourself with Sections 91, 92, and 93 which describe the division of federal and provincial responsibilities in the so-called programme areas and abilities to raise monies through taxation. You need to understand the main social justice implications of these sections. Read Section 35 “Rights of Aboriginal Peoples”. Familiarise yourself with the entire Charter of Rights and Freedoms, which is not long. You will be tested on the list of Charter rights which have social justice implications.

Class #4 (Wed. 18 May) – Legislative Basis of Social Justice in Canada. (1)

This and the following class examine the development of statutory social measures from Tudor times (the 1500s) to the 21st Century. During most of this period, the objectives of the state were not to mitigate suffering, but to control the contagion of pauperism – the criminal and economically threatening condition of destitution.

Required Readings:

“The Employment of the Unemployed”, Chap. VI in de Schweinitz, K. 1943. *England’s Road to Social Security, From the Statute of Labourers in 1349 to the Beveridge Report of 1942*. New York: A.S. Barnes & Co. Inc.

“The Law of Settlement”, Chap. IV in de Schweinitz, K. 1943. *England’s Road to Social Security, From the Statute of Labourers in 1349 to the Beveridge Report of 1942*. New York: A.S. Barnes & Co. Inc.

“The Colonial Inheritance”. Chap. 2 of Guest, D., 1980. *The Emergence of Social Security in Canada*. Vancouver: UBC Press.

Class #5 (Wed. 25 May) – Legislative Basis of Social Justice in Canada. (2)

This class completes the examination of the development of social measures, up to and beyond the 1990s when its inherent fiscal instability triggered drastic cost-cutting measures which reverberate today. We shall pay particular attention to how social justice is increasingly viewed in terms of tax burden and economic sustainability, and how stigmatisation of the poor persists.

Required Readings:

Read the short chapter “Family Allowances in Canada” by Joseph W. Willard, Deputy Minister of National Welfare, in Burns, E.M. (ed.), 1968. *Children’s Allowances and the Economic Welfare of Children: The Report of a Conference*. New York: Citizen’s Committee for Children of New York, Inc. 1961 edition.

“Saving for a Rainy Day: Social Security in Late Nineteenth Century and Early Twentieth-Century Canada”. Chap. 3 of Guest, D., 1980. *The Emergence of Social Security in Canada*. Vancouver: UBC Press.

Moscovitch, A. and G. Drover, 1987. “Social Expenditures and the Welfare State”: The Canadian Experience in Historical Perspective,” in: Moscovitch, A. and J. Albert (eds.), 1987. *The Benevolent State: The Growth of Welfare in Canada*. Toronto: Garamond Press.

Class #6 (Mon. 30 May) – Social Justice, Crime and Social Exclusion.

Required Readings:

“Crime and Social Exclusion”, Chap. 6 of O’Grady, W., 2007. *Crime in Canadian Context: Debates and Controversies*. Don Mills, ON: Oxford University Press.

This class explores the process and consequences of being shut out of the social, political, economic, and cultural systems which determine the social integration of an individual or a group. We shall reflect upon how statutes continue to be used to regulate the behaviour of the poor with the effect of criminalising their very existence. This will include a discussion of ‘crimes of being’, such as being vagrant, homeless, engaged in deviant work, etc. We shall examine contentious legislation such as the *Safe Streets Act* and echoes of the Poor Law in the *Criminal Code* etc.

Class #7 (Wed. 1 June) – Social Justice, Aboriginal People, and the Law.

Notes: (1) Tentative date for this topic, subject to the guest speaker’s availability.
(2) Statute assignment is due at the beginning of class.

This class explores how the law has promoted and prevented social justice for Aboriginal peoples in Canada. We shall also examine the extent of social justice in the state's remedial responses to failed policies such as the Indian Residential School Policy.

Required Readings:

Webster, A., 2006. *Fiscal Responsibility for Programmes and Services to Registered Indians and the Forthcoming Premiers' Conference on Aboriginal Issues: Analysis of Historical and Current Constitutional, Legislative, Intergovernmental, and Political Issues*. Electronic version available from the Instructor.

Independent Assessment Process Model, Indian Residential Schools Settlement Agreement (2006). Instructor will provide electronic copy and highlight areas for special attention.

Supplementary Reading:

Scan through Taylor, J.H., 1985. *Treaty Research Report – Treaty Six (1876)*. Ottawa: Treaties and Historical Research Centre, Indian and Northern Affairs Canada. This is written from the narrow federal interpretation of what the numbered treaties were about. Nonetheless it gives a good introduction to the historic treaty policy and process. This gives a sense of the rationale and the times. This was online but the Instructor can provide a copy. Scan through Treaty Six (1876) for any references to matters pertaining to social justice. There aren't many!

Moscovitch, A. and A. Webster, 1995. *Social Assistance and Aboriginal People*. Monograph for the Royal Commission on Aboriginal Peoples. Published on CD-ROM in 1997. The Instructor can provide an electronic copy. This report contains the background analysis behind the RCAP final Report's text on social assistance and the Poor Law / welfare colonisation analogy of Webster (1993). The 1997 report contains a detailed description of intergovernmental relations over fiscal responsibility in this expensive, hot-potato area.

Class #8 (Mon. 6 June) – Globalisation and Social Justice.

This class foremost considers what globalisation actually is rather than what people imagine it is. This requires, first, a review of the Neo-Liberal economic principles of John Locke, and second, consideration of wide-area trade agreements which are fundamentally altering global economic patterns and creating profound social changes, which in turn beget calls for government to enact new protections in the Polanyi manner. We will consider impacts of globalisation such as job loss, wage reduction, de-skilling of the workforce, and concerns of organisations such as OXFAM that global trade agreements are dispossessing the poor and even denying them access to medicines.

We shall consider Canada's international social obligations, which vary from the *Protocol of Convention on Social Security between Canada and Luxembourg* to treaties requiring Canada to adopt specific standards which have not been tabled in Parliament for implementation as statutes. In these cases the government feels that legislation is already consistent with Canada's international obligations or that the object of the treaty does not require new statutory provisions; ergo, no amendments are made to standing legislation and no new legislation is passed. For instance, Canada ratified the *Convention on the Rights of the Child* but did not enact legislation for its implementation and approval.

Finally, this class asks students to ponder the social justice inherent in this new order which is controlled by binding international agreements and in which big business increasingly pressures governments to reduce social protections while conversely increasing corporate welfare.

We shall also look at the emerging issue of state financial insolvency in Greece : There is every prospect of the World Bank demanding profound austerity measures in return for assistance, with far-reaching impacts on social protections and wage employment. Will Greece go down the same road as New Zealand?

Required Readings:

“Global Capitalism and the Canadian Welfare State: Impacts of Fiscal Policy, and Market Liberalisation on Social Policy.” Chap. 6 of Rice, J.J. and M.J. Prince, 2003. *The Changing Politics of Canadian Social Policy*. Toronto: University of Toronto Press.

Read pp. 4-14 of Kerstetter, S., 2002. *Rags and Riches: Wealth Inequality in Canada*. Vancouver: Canada Centre for Policy Alternatives. A .pdf version is available online at: <http://www.policyalternatives.ca/index.cfm?act=news&do=Article&call=418&pA=4B59033D&type=>

Galabuzi, G.E., 2001. *Canada’s Creeping Economic Apartheid: The Economic Segregation and Social Marginalisation of Racialised Groups*. Toronto: Centre for Social Justice. Read the Executive Summary. Read pp. 15-21 dealing with inequities. Then search the .pdf document for “globalis” (with an ‘s’). Read the sections dealing with globalisation which appear in the search window. The link has been moved but the Instructor can provide the document.

Class #9 (Wed. 8 June) – Social Justice and the Privatisation Debate (1).

This class looks specifically at how some parties seek to achieve social justice through forcing governments – through the courts – to allow free-market programme delivery and to allow private health insurance schemes to operate. The arguments for and against these propositions will be discussed. The class will pay attention to the contradictions inherent in this position; on the one hand, privatisation may make for efficiencies such as faster access to services, yet on the other hand these benefits are not evenly felt particularly among low-income groups. Our privatisation discussion will include arguments why privatised services are more social just for diverse groups in our increasingly pluralised society.

Required Readings:

Gibelman, M. 1998. “Theory, Practice, and Experience in the Purchase of Services.” Chap. 1 in Gibelman, M. and H.W. Demone (eds.), *The Privatisation of Human Services: Policy and Practice Issues, Vol. 1*. New York: Springer.

“Crisis of the Welfare State”, Chap. 4 of Rice, J.J. and M.J. Prince, 2003. *The Changing Politics of Canadian Social Policy*. Toronto: University of Toronto Press.

Richard Titmuss, “The Social Division of Welfare: Some Reflections on the Search for Equity,” in *Essays on the Welfare State*, Chapter 2, pp. 34-55.

Supplementary Reading:

O’ Higgins, M., 1989. “Social Welfare and Privatization: The British Experience.” Chap. 6 in Kamerman, S.B. and A.J. Kahn (eds.), *Privatization and the Welfare State*. Princeton, N.J.: Princeton University Press.

Class #10 (Mon. 13 June) – Social Justice and the Privatisation Debate (2).

This class carries on from the globalisation discussion, delving into the contentious issue of the extent to which Canada's health care system corresponds with principles of social justice. We will pay particular attention to how the Charter is being used to compel governments to provide better access to more services, or else get out of the business and leave things to private enterprise.

Required Readings:

Mendelson, M. and P. Divinsky, 2002. *Canada 2015: Globalization and the Future of Canada's Health and Health Care*. Ottawa: Caledon Institute of Social Policy. Available online at: <http://www.caledoninst.org/Publications/PDF/299ENG.pdf>. This is a lengthy but very enlightening vision of where Canadian health care is headed.

Supplementary Reading:

Petter, A. "Wealthcare: The Politics of the Charter Revisited". Chapter in Flood, C.M., Roach, K., and L. Sossin, 2005 (eds.). *Access to Care, Access to Justice*. Toronto: University of Toronto Press.

Class #11 (Wed. 15 June) – TENTATIVE TOPIC: Social Justice and Organised Labour.

This class examines the development of the labour movement in Canada in the context of the changing environment of statutory protections (e.g., *Canada Labour Code*) and trade agreements. The readings provide a general sense of the development and direction of the labour movement. The PowerPoint presentation will introduce details about the statutory structure of labour organisation and protections in Canada, and discuss the economic and social pressures which unions must adapt to in order to maintain their gains in social justice.

Note: The quiz will be written during class.

Required Readings:

The Instructor will provide an electronic reading on the history of the labour movement in Canada.

"Labour Law", article on labour law in Canada from Canadian Encyclopaedia, online at: <http://www.thecanadianencyclopedia.com/index.cfm?PgNm=TCE&Params=A1ARTA0004425>.

Have a look at the *Canadian Labour Code* (<http://laws.justice.gc.ca/en/ShowTdm/cs/L-2>). You do not need to study this massive statute. All you need to do is to get a sense of what it addresses.

Class #12 (Mon. 20 June) – Social Justice and the Fiduciary Role of the State with Special Emphasis on Child Welfare.

Note: (1) The Analytical Paper is due at the beginning of class.

(2) Pot luck supper + course evaluation.

This final class examines how Canada's child welfare legislation achieves or misses social justice for the child and for others with a stake in the child's well-being. We shall pay particular attention to the paternalism inherent in legal definitions of what is in the "best interests of the child". We shall also examine over-representation of minority groups, such as Native people, in the child welfare system and ponder the social justice in child welfare policies that do not cross cultural lines well.

Required Readings:

Read the just the Introduction to Andrews, H.T.G., 1973. *Family Law in the Family Courts*. Toronto: Carswell. This provides a succinct overview of jurisdictional issues and statutory development in child welfare and related family legislation in Ontario. Ontario's legislation has evolved subsequently but the basic principles remain largely intact. The Ontario picture presented is broadly representative of the other provinces.

Bala, N., 2004. "Child Welfare Law in Canada: An Introduction," Chap. 1 of Bala, N, Zapf, K.Z., Williams, R.J., Vogl, R. and J.P. Hornick, 2004. *Canadian Child Welfare Law: Children, Families and the State*. Toronto: Thompson Educational Publishing Inc.

Supplementary Readings:

MacLaurin, B. and N. Bala, 2004. "Children in Care", Chap. 4 of Bala, N, Zapf, K.Z., Williams, R.J., Vogl, R. and J.P. Hornick, 2004. *Canadian Child Welfare Law: Children, Families and the State*. Toronto: Thompson Educational Publishing Inc.

Sinclair, M.S., Bala, N., Lilles, H. and C. Blackstock, 2004. "Aboriginal Child Welfare," Chap. 7 of Bala, N, Zapf, K.Z., Williams, R.J., Vogl, R. and J.P. Hornick, 2004. *Canadian Child Welfare Law: Children, Families and the State*. Toronto: Thompson Educational Publishing Inc.

EVALUATION

Attendance

Attendance is mandatory and students must participate constructively in discussions. Attendance is doubly important because this is a condensed course in which much of the material is delivered in class. The PowerPoint presentations may look comprehensive and detailed, but on their own they are insufficient especially for you to prepare for the quiz. The quiz will contain elements delivered verbally by the Instructor and question you on the readings.

There is no attendance mark. However a sign-in sheet will be circulated at each class. If you have not signed it you will be considered to have missed the class. If you miss 1/3 of the course (four classes) you must provide satisfactory written explanation why you should be issued a grade. This is the normal benchmark when the Administration gets concerned. Take note that I have failed students who - incredibly - treated a classroom course like a correspondence course did not show up for most or all the classes. However you will find that I am very understanding of genuine crises such as health problems but please let me know when the problem arises.

Course Assignments and Grading

The balance of assignments and grading is appropriate to a senior undergraduate course delivered in a short time frame, where many students make special sacrifices to attend:

Analysis of a Statute	35%
Analytical Paper	50%
Quiz on the Readings	<u>15%</u>
	100%

1. ANALYSIS OF A STATUTE

35%

Due at the beginning of Class #7 (Wednesday 2 June).

The assignment is a critical analysis of an example of federal or provincial legislation in the area of social welfare. This requires no legal background whatsoever. You will simply answer questions about the statute. It will all be explained. This exercise has proven an excellent leveller between students with and without legal training.

If at first the topic seems foreboding, note that students often report that this is one of the more interesting and enlightening assignments of their degree. The purpose of this assignment is twofold: first, to familiarise students with the actual format of statutes which seek to dispense social justice; and second, to exercise students in researching the development of social legislation and the social justice issues which surround this legislation. Each student will be assigned a statute at random from the following list. There is a reason why students cannot choose their own statute: In the working world, we cannot pick and choose the legislation we are expected to know, apply, or just analyse. Furthermore a wide range of professionals require familiarity with certain statutes relevant to their field.

Federal Statutes include:

- Canada Health Act.
- Indian Act.
- Employment Insurance Act.
- Canada Pension Plan Act.
- Department of Social Development Act.
- Canada Mortgage and Housing Corporation Act.
- Canada Labour Code.
- Employment Equity Act.
- Old Age Security Act.
- Universal Child Care Benefit Act.
- Canada Health Care, Early Childhood Development and Other Social Services Funding Act.
- Public Health Agency of Canada Act.

Provincial Statutes (Choose a province):

- Education Act respecting K-12 education (a.k.a. Schools Act).
- Social Assistance Act (e.g., Ontario Works Act).
- Labour Relations Act.

- Child Welfare Act respecting child welfare services.
- Worker's Compensation Act.
- Health Insurance Act.

The provincial acts vary in name according to the province, but all provinces have statutes governing the areas shown. Students are expected to thoroughly familiarise themselves with their statute and apply what they have learned in class to its analysis. Law students, having the skills to do so, may wish to expound upon the case law aspects of this statute. However, in order to get a good grade it is only necessary to adequately address these questions about your statute:

1. State the Statute's proper name, short name (if any), and full legal citation.
2. Include the Internet link where the Instructor can find the full text of the statute.
3. Identify the department(s) and minister(s) responsible for administering the statute.
4. Explain the intended purpose of the statute including its social objectives.
5. Identify and describe the targets of the statute (usually a population or an organisation).
6. Explain the extent to which this statute is appropriate in light of the constitutional jurisdiction of the legislature that enacted it. Identify the relevant sections of the Constitution.
7. Explain the history of the development of the statute, and of any amendments.
8. Provide a synthesis of the statute's organisation and content, by part, section, and schedule as appropriate.
9. Explain the inter-relationship between this and other statutes.
10. Explain the financial implications of this statute; i.e., is it used to 'move money' and if so, how much, for what purpose, and to whom? Otherwise what are this statutes' indirect financial implications?
11. Describe the type of regulations (if any) pursuant to the statute and explain their main functions.
12. Finally, discuss the social justice implications of this statute, taking into account the perspectives of the main stakeholders.

This exercise is intended to familiarise students with an actual statute with social justice implications. **The assignment is neither long nor difficult, but you will fail it if you base it on a literature or internet summary rather than on what you observe from actually reading the statute.**

The critical analysis must clearly refer to key concepts from your classes and readings. It must be 8 pages minimum (10 pages maximum) at 1.5 line spacing, not including cover, endnotes, and bibliography. Points will be deducted if shorter than the minimum. The Instructor will provide a handout explaining the specifications. This will also be the template for grading the assignment. It is a handy checklist to ensure your assignment covers everything and follows the right format. Please also follow the endnote/footnote referencing instructions specified by the Instructor in the handout to be provided.

2. ANALYTICAL PAPER

50%

Due in-class on last day of class (Monday 21 June).

This paper will be an analysis of an issue in social justice and government social protections. Students will choose an issue from a list provided by the Instructor. There will be more choices than there are students, so the last student in line will not be left with a disagreeable topic. The topic, which will be familiar from class, should be analysed in light of the course material. It should be well-referenced so the Instructor sees that you have a good command of all the seminars and readings. The link between social justice and social protections should be clear and pervasive.

The paper must have 15 pp. minimum (16 pp. max) at 1.5 line spacing, not including pages for cover, endnotes, reference list, and any appendices. Points will be deducted for papers shorter than the minimum. Please also follow the endnote/footnote referencing instructions specified by the Instructor in the handout to be provided. Failure to do so will result in loss of points. The Instructor will provide a handy checklist to ensure your paper covers everything and follows the right format. It shows weights for common-sense expectations like:

- Proper grammar, sentence structure, and punctuation.
- Complete references and proper use of endnotes and footnotes.
- Appropriate bibliography, or instead you can have the full citations in endnotes.
- Adherence to citation format.
- Absence of typing and spelling mistakes.
- Inclusion of title page with your name.
- Pagination.
- 12 pt font and 1.5 line spacing.
- Proper margins (1" all around) and layout of the paper.
- Clear, strong introduction to the topic / research question, with a well-articulated and logical argument.
- Argument(s) supported by a critical analysis drawing upon the readings, the relevant literature generally, and the class presentations.
- Proper and selective use of quotes to support arguments.
- Accurate and comprehensive use of data sources (*Do not* build your paper from a string of quotations, however well-referenced or re-worded).
- Indication of integration of the course material.
- Strong concluding comments which clearly address issues raised in the paper.
- Well-organised with headings and sub-headings as appropriate.

3. IN-CLASS QUIZ

15%

This purpose of this is simply to ensure that students keep up with all their readings. This incentive is important in a course with a condensed schedule. **The quiz will be held during the second last class.** This is a good time since it corresponds with preparation for the paper, and you will be citing the readings in the paper anyway. The quiz will not be difficult for students who keep up with their readings.

GENERAL REMINDERS

Students with special needs

Students are very welcome to bring to the instructors' confidential attention issues which may complicate their academic efforts. Students with special needs (e.g., a disability) should contact the Instructor so that special arrangements can be made in a timely manner. It is also the student's responsibility to approach the Paul Menton Centre as required. Accommodation will be made upon verification of special needs by the Paul Menton Centre.

Most students with special needs will find that slide decks, for the lectures, to be a great help. Students with disabilities can receive the slides in advance of the class. Students without *bona fide* special needs may NOT use a computer in class.

Assignments on time

Assignments must be submitted on time. Handing them late is unfair. It also shows disrespect for your peers who submitted their own work in a timely manner, and disrespect for the Instructor who scheduled time to grade assignments and must submit grades on time. Work submitted after the final date *without prior approval of the instructor* will be deducted one letter grade for each *day* late; e.g., a "B+" grade becomes "B" on the first day overdue and "B-" on the second - a recipe to fail a course in short order. In exceptional circumstances (e.g., illness or family emergency) it may be impossible to meet a deadline if you speak with the instructor *before* the deadline. Extensions must be justified with a medical or other appropriate certificate. This is serious and paperwork is needed. Do *not* expect an extension if "my computer crashed", "my computer got a virus", or "my server went down". It is your responsibility to back up your documents so that you can complete assignments on-target on another computer.

Handing in and returning papers

Assignments should be handed to the Instructor in class. Leave them in the assignment deposit box near the SSW office door (5th floor Dunton Tower) if for any reason this is impossible. Keep a copy of your assignments. Your analytical paper should be submitted in paper form *and* electronic form; the latter to be e-mailed. The graded assignments of social work students, which cannot be returned in class, will be put in envelopes marked with the student's name and left in the mail slots in the student lounge. Other arrangements will be made for students from other departments.

Grading standards

Students are not entitled to any sort of grade for any reason other than academic performance. Nothing is guaranteed or purchased – only earned. It takes average work to get a "C" and increasingly harder work to get higher grades. Fourth year students often have the experience and work ethic to achieve grades in the B and A ranges in courses such as LAWS/SOCI/SOWK 4703. Your Instructor assumes that you are seasoned students able to do well at this level of study. Set your target for this course high and your grade will reflect the effort. Students are always entitled to a review of a final grade. In order to get a review you need to have a grievance. The reasons should be more persuasive and developed than "I'm an 'A' student and I'm not used to a low grade like this." This may be so, but grievances must be substantive and the rationale for re-grading indicated clearly. Consult the *Undergraduate Calendar* for further details. Note that your grade can be revised downwards, not just upwards, if reviewed.

Plagiarism is a serious offence

Do not plagiarise. Now and then your Instructor, like others, detects an instance of borderline or actual plagiarism. This is often confined to first or second year students who unwittingly plagiarise or imagine they are crafty enough to get away with it. Honours students are expected not just to cite their sources

properly, but to ask their instructors whether a proposed usage of the ideas of others would be inappropriate. Such an inquiry would reflect well upon you. Plagiarism includes re-using old papers, or papers from another courses, copying material from a book or off the Internet without giving it the proper credit. Properly reference every quotation and your own wording when the idea originates elsewhere. *Do not even think* of building your assignment or paper around imported Internet material, or even worse, buying a paper. Your Instructor has probably read it all or could easily find it. He has a 100% conviction rate in academic charges he has laid through university's disciplinary regulations.

Check the undergraduate calendar for more information about what constitutes plagiarism. It is a grave academic offence which can terminate your university aspirations, and for which Carleton and other universities have zero-tolerance policies. Be diligent, ethical, and do your own thinking - The Instructor is known to employ software to check assignments for evidence of plagiarism. This is one of the reasons why **students must submit an electronic copy of their paper in addition to the paper copy.**

Oral presentation of course work

Students must be prepared to provide a 15 minute oral explanation of their assignment or paper in front of the Instructor in his office, not in front of the class. Up to three students may be chosen at random for this. It would be very low-stress, simply a discussion, and you do not need to prepare anything at all. If selected you only need to answer some questions about the work. You will be asked to rewrite the work if it seems you do not understand your own words. The only people who need to worry are plagiarists.

Standard of writing

Writing well is a key skill in academic and professional circles. Above all, do not write as you may speak. Write formal English. Format your work so that it 'reads' easily. Steer clear of poetic licence, colloquialisms, unessential words which pad the length, and other things without place in academic writing. Employ logical headings, clear divisions and subdivisions, and an indent for each paragraph. Adding an extra space after each sentence improves the readability. Use an economic style. Avoid verbosity. Assignments may be written in Queen's English, Canadian English, or US Standard English but be consistent in the system of spellings and grammar that you follow. You will receive examples, explanations, hints, and expectations to help get top marks on the 'writing' part of your course work.

Students are expected to activate and use as guidance the spell-checking and grammar/style checking software in their word processors. This software often catches the more outrageous mistakes but good writers never blindly accept all the suggestions made by it. These programs are neither intelligent nor intuitive. They are notorious for applying simplistic rules; e.g., suggesting excessive use of commas or always using "that" instead of "which". They sometimes cannot make sense of good sentences and may suggest totally incorrect words. Disabling the correct-as-you-type function reduces the latter possibility. Finally, students are expected to print their draft assignments for proof-reading line-by-line.

Citations and references

Cross-departmental courses such as this tend to result in a hodge-podge of citation styles which may or may not be correctly executed, and which may be difficult for the instructor to verify. Moreover, some of these citation formats are ill-suited to the multidisciplinary referencing appropriate to this course.

SOWK/SOCI/LAWS 4703 students will employ one of the following:

1. An approved endnote (not footnote) system with separate bibliography. May be a recognised system or a transition system for APA users. Very easy and the Instructor can explain.
2. Law students may use the Canadian legal footnote system they are accustomed to.