

Course Outline

COURSE:	LAWS 2105 D – Social Justice and Human Rights
TERM:	Winter 2025
PREREQUISITES:	1.0 credit from LAWS 1001 and LAWS 1002, or HRSJ 1101 and HRSJ 1102, or PAPM 1001 and PSCI 2003.
CLASS:	Day & Time: Fridays 2:35 pm to 5:25 pm Room: Online Synchronous (Via Zoom)
INSTRUCTOR:	Andrew Costa
CONTACT:	Office Hrs: By Appointment (Via Zoom) Telephone: N/A Email: andrewcosta@cunet.carleton.ca
BRIGHTSPACE:	https://brightspace.carleton.ca/d2l/home/285142

CALENDAR COURSE DESCRIPTION

Theories and practices of law and social justice. Issues examined may include: civil democracy and repression; global governance and the rule of law; democratic movements and social power; human rights instruments, regimes and remedies; armed conflict; and humanitarian intervention.

COURSE DESCRIPTION

Canadians are experiencing several interrelated economic, social, and cultural crises at once. Owning a home remains a near impossible dream to most, newcomers are left to fend for themselves upon arrival to Canada, and diverse Indigenous people have been living in collective desperation over centuries. Meanwhile, Federal and Provincial governments continue to play on Canadians' precarity to secure votes while lacking the initiative or foresight to take major actions to deal with these issues. It is thus important to determine whether taking legal action through the judiciary can secure the economic and social entitlements that Canadians need to exist in this precarious climate.

This course thus responds to these broader developments through assessing whether

Economic, Social, and Cultural (ESC) Rights can be actualized in the present legal and political climate in Canada. We look at how the *Canadian Charter of Rights and Freedoms* has been taken up in legal actions that advocate incorporating ESC rights in the Canadian Constitution. We also determine whether these actions have been successful. We then assess how legal initiatives to recognize ESC Rights have an impact on Indigenous people and BIPOC communities in Canada as well. In the process, we will then examine how other nations throughout the world have recognized ESC rights and whether their own initiatives could serve as an exemplar for how Canada can take similar actions.

How have Canadian officials and the judiciary understood ESC rights? What Economic and Social entitlements does the Canadian state owe to its citizens? How do Indigenous peoples and BIPOC communities conceive of ESC rights? How have ESC rights been recognized in other countries?

COURSE OBJECTIVES

Upon successful completion of this course, students should be able to:

- Identify how ESC rights are understood and applied at conceptual, legal, and practical levels of analysis.
- Identify how ESC rights have drawn the three branches of Canadian government (Legislative, Executive, Judiciary) into harmony, while also driving them into conflict in other instances.
- Critically explore how ESC rights are tied into major events like colonization, globalization as well as in contemporary phenomena related to racial justice
- Explain how ESC rights have been recognized in other nations throughout the world.
- Critically analyze scholarly literature.
- Synthesize conceptual and practical knowledge and apply it to contemporary events.

REQUIRED TEXTS

All required and supplementary readings are available on Brightspace. Students are not required to purchase textbooks or other learning materials for this course.

SCHEDULE***Week 1: Introduction*****January 10**

Syllabus Review

No Readings

SECTION 1: The Reception of ESC Rights in Canada***Week 2: Socio-Economic Rights and the Development of the Canadian Charter of Rights and Freedoms*****January 17**

Required Readings:

William A. Schabas, "Canada and the Adoption of the Universal Declaration of Human Rights," McGill Law Journal 43 (1998): 403 – 441

Pierre Trudeau, "Economic Rights" McGill Law Journal 8 (1962): 121 – 125

Week 3: Canada's ESC Rights Retrenchment**January 24**

Required Readings:

Martha Jackman, "From National Standards to Justiciable Rights: Enforcing International Social and Economic Guarantees through Charter of Rights Review" Journal of Law and Social Policy, 14, No. 1 (1999): 69 – 90

Senator Noel Kinsella, "Can Canada Afford a Charter of Social and Economic Rights? Toward a Canadian Social Charter" Saskatchewan Law Review, 71, No. 1 (2008): 7 – 22

Week 4: Rights to Life, Liberty, and Security of the Person**January 31****First Quiz is Due**

Required Readings:

Margot Young, "Context, Choice, and Rights: PHS Community Services Society v. Canada (Attorney General)" UBC Law Review, 44, No. 1 (2011): 221 – 254.

Sarah Buhler, "Cardboard Boxes and Invisible Fences: Homelessness and Public Space in City of Victoria v. Adams," Windsor Yearbook of Access to Justice (2009): 209 – 225

Week 5: Rights to Equality**February 7**

Required Readings:

Bruce Porter, "Twenty Years of Equality Rights: Reclaiming Expectations" Windsor Yearbook of Access to Justice 23 (2005): 145 – 192

Week 6: Gosselin v. Quebec (Attorney General)

February 14

Short Paper 1 is Due

Required Readings:

Gosselin v. Quebec (Attorney General) *READ THE ABBREVIATED JUDGMENT. NOT THE ENTIRE OPINION

Gwen Brodsky, Rachel Cox, Shelagh Day, & Kate Stephenson, "Gosselin v. Quebec (Attorney General)" Canadian Journal of Women and the Law, 18 (2006): 189 – 249.

Reading Week

February 17-21

No Assigned Reading

Week 7: Tanudjaja v. Canada (Attorney General)

February 28

Required Readings:

Tanudjaja v. Canada (Attorney General) * READ THE ENTIRE JUDGMENT

Tracy Heffernan; Fay Faraday; & Peter Rosenthal, "Fighting for the Right to Housing in Canada," Journal of Law and Social Policy, 21 (No. 1): 10 – 45.

Week 8: Indigenous Peoples' ESC Rights

March 7

Second Quiz is Due

Required Readings:

Patrick Macklem, "Aboriginal Rights and State Obligations," Alberta Law Review, 36 (No. 1) (1997) 96 – 116.

Frankie Young, "Etuaptmumk: A Means to Advance Indigenous Economic Development 'in a Good Way'" Dalhousie Law Journal, 46 (1) (2023) 1 – 26.

SECTION 2: The Reception of ESC Rights Around the World

Week 9: ESC Rights around the World

March 14

Required Readings:

Davis DesBaillets and Sarah E. Hamill, "Coming in from the Cold: Canada's National Strategy, Homelessness, and the Right to Housing in a Transitional Perspective" *Canadian Journal of Law and Society*, 37 (2022), 273-293.

Fiona King, "Scotland: Delivering a Right to Housing" *Journal of Law and Social Policy*, 24 (2015): 155 – 161

Mark S. Kende, "The South African Constitutional Court's Embrace of Socio-Economic Rights: A Comparative Perspective," *Chapman Law Review*.

Lilian Chenwi, "Implementation of Housing Rights in South Africa: Approaches and Strategies" *Journal of Law and Social Policy*.

Week 10: Minimum Core and Basic Reasonableness

March 21

Short Paper 2 is Due

Required Readings:

Ania Kwadrans, "Socioeconomic Rights Adjudication in Canada: Can the Minimum Core Help in Adjudicating the Right to Life and Security of the Person under the Canadian Charter of Rights and Freedoms," *Journal of Law and Social Policy* 25, No. 1 (2016): 78 – 107.

Lisa Forman, "Can Minimum Core Obligations Survive a Reasonableness Standard of Review under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights," *Ottawa Law Review* 47, No. 2 (2016): 561-576.

Week 11: The End of ESC Rights?

March 28

Third Quiz is Due

Required Readings:

Philip Alston (2017) "The Populist Challenge to Human Rights" *Journal of Human Rights Practice*. 9 (1), 1 – 15.

Paul O'Connell, "The Death of Socio-Economic Rights," *Modern Law Review*. 74 (4), 532 – 554.

Richard Mailey (2020), "The Notwithstanding Clause and the New Populism," *Constitutional Law Review*.

Week 12: Exam Review**April 4**

Last Chance to Submit Critical inquiry Questions
No Assigned Reading

EVALUATION

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

<u>Assignment</u>	<u>Description</u>	<u>Due Date</u>	<u>Weight</u>
Quiz 1	5 Questions	January 31	5%
Short Paper 1	3 – 4 Pages	February 14	20%
Quiz 2	5 Questions	March 7	5%
Short Paper 2	3 – 4 Pages	March 21	20%
Quiz 3	5 Questions	March 28	5%
Major Paper	8 – 10 pages	April 26	40%
Critical Inquiry Questions	Reading Inquiry	Ongoing	5%

Course Components***Short Papers (40% in total)***

Write a short paper answering one of two questions that highlight some core themes explored in the courses' earlier texts. It is a critical review of key concepts in the courses' first few weeks and should focus on them. You could also cite the lectures as well. Other outside materials are not required.

The Short Papers are due on **February 14 and March 21**.

Major Paper (40%)

Write a Major Paper (8 Pages Minimum - 10 Pages Maximum) that illustrates your own critical perspective on whether the *Canadian Charter of Rights and Freedoms* to support ESC Rights. You must use 3 to 5 academic sources outside the class that have not been taken up in the course to help you support your argument. You can also include

up to 2 primary sources (news articles, photographs, pamphlets, etc.,) as well. The major paper is due at the end of the Exam Period on **April 26**.

Quizzes (15% in total)

You are required to complete 3 short quizzes that explore core concepts in course texts throughout the semester. The quizzes will consist of 5 multiple choice questions and true or false questions. You will have a day to complete each quiz.

The First Quiz is due on **January 31**, the Second Quiz is due on **March 7**, the third Quiz is due on **March 28**.

Critical Inquiry Assignment (5%)

You are required to look submit a critical question on 5 different course texts throughout the semester. We will then take up some questions during class to help all students get a better understanding of the materials. You must submit your questions to Brightspace. Each one is worth 1 percent of your total grade.

This assignment is ongoing throughout the semester, but you must submit all 5 questions by our last class on **April 4** to receive the full 5 percent.

GRADE REQUIREMENTS

Grading of assignments includes evaluation of the students' knowledge of, and ability to discuss information and ideas presented. Grading will also take matters of spelling, grammar, punctuation, proper citation, and clarity of expression into account.

To appeal a grade please wait one week after receiving your grade to reflect on the justification given. Emails sent before the weeklong period is up will not receive a response. After the week, you must send your T.A. a detailed explanation that explains why you believe you deserve a better mark based on the required guidelines. If upon appealing to the T.A. you are still unclear or unhappy about your grade you can then contact the Instructor. The instructor will then evaluate your grade.

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

The granting of extensions is determined by the instructor, who will confirm whether an extension is granted and the length of the extension. For requests for short-term extensions, please complete the form at the following link and submit it to the instructor prior to the assignment due date: <https://carleton.ca/registrar/academic-consideration-coursework-form/>.

Final exam deferrals must be applied for at the Registrar's Office. Please view the following link for more information and how to apply for a deferral:

<https://carleton.ca/registrar/deferral/>

For more information regarding academic consideration for short-term incapacitation (illness, injury, or extraordinary circumstances beyond a student's control), please visit the following link: <https://students.carleton.ca/course-outline/#academic-consideration-for-short-term-incapacitation>

All assignments must be submitted via Brightspace. It is your responsibility to upload assignments BEFORE the deadline and in readable formats that are compatible with the Brightspace system (e.g. PDF, .docx).

FINAL GRADE APPROVAL

Standing in a course is determined by the course instructor subject to the approval of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision.

No grades are final until they have been approved by the Dean.

POLICY ON PERMISSIBILITY OF SUBMITTING SAME WORK MORE THAN ONCE, PERMISSIBILITY OF GROUP OR COLLABORATIVE WORK, AND PERMISSIBILITY OF USING GENERATIVE AI

Permissibility of Submitting Substantially the Same Piece of Work for Academic Credit

- Students are strictly prohibited from submitting any work that has been previously submitted for academic credit in another course. Any such submission will result in a grade of 0, and the student will be referred to the university's academic integrity office for review. Re-using any portion of previous work, regardless of its extent, will be treated as a violation of academic integrity.

Cooperation or Collaboration

- Students are not permitted to cooperate or collaborate on any academic assignments unless explicitly stated by the instructor. Any unauthorized collaboration will result in the assignment receiving a grade of 0 and the student being referred to the academic integrity office. This policy applies to all tests, exams, and individual assignments. Proofreading by others is not allowed.

Use of Generative Artificial Intelligence (AI) Tools

- The use of AI tools, such as ChatGPT, to produce any part of an assignment or test is strictly forbidden. Any use of AI for content creation, even for small edits, will result in an automatic grade of 0, and the student will be referred to the academic integrity office for disciplinary action.

PLAGIARISM

The University Academic Integrity Policy defines plagiarism as “*presenting, whether intentionally or not, the ideas, expression of ideas or work of others as one’s own.*” This includes reproducing or paraphrasing portions of someone else’s published or unpublished material, regardless of the source, and presenting these as one’s own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, artworks, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, material on the internet and/or conversations.

Examples of plagiarism include, but are not limited to:

- any submission prepared in whole or in part, by someone else, including the unauthorized use of generative AI tools (e.g., ChatGPT);
- using ideas or direct, verbatim quotations, paraphrased material, algorithms, formulae, scientific or mathematical concepts, or ideas without appropriate acknowledgment in any academic assignment;
- using another’s data or research findings without appropriate acknowledgement;
- submitting a computer program developed in whole or in part by someone else, with or without modifications, as one’s own; and
- failing to acknowledge sources through the use of proper citations when using another’s work and/or failing to use quotations marks.

Plagiarism is a serious offence that cannot be resolved directly by the course’s instructor. The Associate Dean of the Faculty conducts a rigorous investigation, including an interview with the student, when an instructor suspects a piece of work has been plagiarized. Penalties are not trivial. They can include a final grade of “F” for the course.

STATEMENT ON STUDENT MENTAL HEALTH

As a university student you may experience a range of mental health challenges that significantly impact your academic success and overall well-being. If you need help, please speak to someone. There are numerous resources available both on- and off-campus to support you.

For more information, please consult <https://wellness.carleton.ca/>

Emergency Resources (on and off campus):

- <https://wellness.carleton.ca/get-help-now/>

Carleton Resources:

- Mental Health and Wellbeing: <https://carleton.ca/wellness/>
- Health & Counselling Services: <https://carleton.ca/health/>
- Paul Menton Centre: <https://carleton.ca/pmc/>
- Academic Advising Centre (AAC): <https://carleton.ca/academicadvising/>
- Centre for Student Academic Support (CSAS): <https://carleton.ca/csas/>
- Equity & Inclusivity Communities: <https://carleton.ca/equity/>

Off Campus Resources:

- Distress Centre of Ottawa and Region: (613) 238-3311 or TEXT: 343-306-5550, <https://www.dcottawa.on.ca/>
- Mental Health Crisis Service: (613) 722-6914, 1-866-996-0991, <http://www.crisisline.ca/>
- Good2Talk: 1-866-925-5454, <https://good2talk.ca/>
- The Walk-In Counselling Clinic: <https://walkincounselling.com>

ACADEMIC ACCOMMODATIONS

Carleton is committed to providing academic accessibility for all individuals. You may need special arrangements to meet your academic obligations during the term. The accommodation request processes, including information about the Academic Consideration Policy for Students in Medical and Other Extenuating Circumstances, are outlined on the Academic Accommodations website (students.carleton.ca/course-outline).

- If you require supporting documentation for short-term considerations, you may only request the Academic Consideration for Coursework form. You may not request medical notes or documentation. [Academic Consideration for Coursework Form - Registrar's Office](#)
- Consult the Academic Consideration Policy for Instructors information page for more details. [Academic Consideration Policy: Faculty Information - Registrar's Office](#)

Pregnancy Obligation and Family-Status Related Accommodations

Write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For

more details about the accommodation policy, visit the [Equity and Inclusive Communities \(EIC\)](#) website.

Religious Obligation

Write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details, please go to: <https://carleton.ca/equity/focus/discrimination-harassment/religious-spiritual-observances/>.

Academic Accommodations for Students with Disabilities

The Paul Menton Centre for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or pmc@carleton.ca for a formal evaluation. You can find the Paul Menton Centre online at: <https://carleton.ca/pmc/>

If you are already registered with the PMC, contact your PMC coordinator to send me your Letter of Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (if applicable). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (if applicable).

Survivors of Sexual Violence

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and where survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: <https://carleton.ca/equity/sexual-assault-support-services>

Accommodation for Student Activities

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. Read more here: <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>.

For more information on academic accommodation, please visit: <https://students.carleton.ca/services/accommodation/>.

Academic Consideration for Medical and Other Extenuating Circumstances

Due to medical and other extenuating circumstances, students may occasionally be unable to fulfill the academic requirements of their course(s) in a timely manner. The University supports the academic development of students and aims to provide a fair environment for students to succeed academically. Medical and/or other extenuating circumstances are circumstances that are beyond a student's control, have a significant impact on the student's capacity to meet their academic obligations, and could not have reasonably been prevented.

Students must contact the instructor(s) as soon as possible, and normally no later than 24 hours after the submission deadline for course deliverables. If not satisfied with the instructor's decision, students can conduct an "informal appeal" to the Chair of the department within three (3) working days of an instructor's decision. We have created a webform specifically for appeals to the Chair, which can be found here:

<https://carleton.ca/law/application-for-review-of-refusal-to-provide-academic-consideration/>. *Note: This form only applies to LAWS courses and is not the same as a formal appeal of grade.* More information about the academic consideration can be found [here](#).

Intellectual Property and Copyright Policy

The course materials posted on this course's Bright Space page are designed for use as part of the LAWS 2105 course at Carleton University and are the intellectual property of the Instructor (© 2025, Andrew Costa. All rights reserved.) unless otherwise stated. Unless a user's right in Canada's Copyright Act covers the particular use, you may not record, copy, publish, post on an internet site, sell, or otherwise distribute this course's content without the Instructor's express permission.

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