

# SOCIAL WELFARE LAW - LAW 333

University of Victoria Faculty of Law

Fall 2010

Instructor: Tim Richards  
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Office: Room 236  
Office Hours: You may drop by my office or schedule an appointment. Generally, I will be unavailable for one and a half hours prior to LRW, LLP and SWL classes.  
Phone: 721-8185  
Class Time: 3:30 – 6:30 p.m., Wednesday  
Location: Rm. 142  
Unit Value: 1.5

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## 1. Course Description and Objectives

Is law an effective means or instrument to address social, economic or other disadvantage experienced by members of Canadian society? Are the aims of social welfare law broader than this? If it is an effective means or instrument to achieve these goals, in what manner and are there limitations to this?

These questions form the backdrop to Law 333, and the course is relevant both to those with a passion for social justice and those who wish to simply deepen their understanding of this area of law.

The course addresses the following themes.

- (1) The conceptual parameters of social welfare law.
- (2) A general historical overview of social welfare law in Canada from Confederation to the present.
- (3) How social welfare law and social welfare programs are shaped by the historical and cultural context in which they arise.
- (4) The distinction between social welfare law and social welfare programs in their stages of creation and implementation and how these can diverge.
- (5) Understanding the role of discretion in the implementation of social welfare law programs in achieving their goals.
- (6) The role of both legislation and court decisions in constituting social welfare law.

A key theme of the course is that social welfare law must be understood as a product of cultural values and forces and the social, political and economic context in which it originates and evolves. It reflects both cooperative and conflictual forces and tensions in society.

Studying social welfare law requires understanding how it operates in practice. For this reason, the course includes various case studies as concrete examples of the general characteristics of social welfare law. These will include:

- (1) how the social and economic context in which the workers' compensation program in B.C. emerged shaped this program,
- (2) the nature of employment insurance as a social welfare program as indicated by its consequences,
- (3) income assistance as a specific example of an economic security program,
- (4) the structure of our health care system as determined by the constitutional and legislation, and
- (5) the contributions of the courts to expanding or limiting social welfare law through examining court decisions.

## 2. Teaching Methodology

While the course will follow both a lecture and seminar format, learning the content of the course requires participation and this will be structured into the classes. The course will also include presentations on areas of social welfare law by guest presenters and student presentations and facilitated discussions.

## 3. Course Materials

Students should obtain the Social Welfare Law Coursebook. The articles in the list of class topics below refer to articles in the Coursebook. In addition, supplemental readings will be provided by the instructor and by guest presenters.

## 4. Class and Topic Schedule

The following schedule presents the topics that the course will cover. It will be followed with flexibility. The scope of many of the topics is considerable and the schedule is created to allow further depth of analysis and discussion of topics of particular interest to students. Further information regarding the speakers and the readings they assign will be provided as the course progresses.

<b>Class</b>	<b>Date</b>	<b>Topic</b>
1.	<b>Sept. 8</b>	<b>Introduction to Law 333: Social Welfare Law</b> Course Introduction
2.	<b>Sept. 15</b>  <b>Part I</b>	<b>The Creation of Social Welfare Law</b>  <b>Context: Social, Economic, and Political Forces</b> Case Study: Workers' Compensation Legislation in B.C.

	<b>Part II</b>	<p>Readings: CB: Article 1</p> <p><b>The Historical Development of SWL in Canada</b> The Creation of the “Welfare State”</p> <ul style="list-style-type: none"> <li>• 1867 to 1966</li> </ul> <p>Readings: CB Article 2</p>
3.	<p><b>Sept. 22</b></p> <p><b>Part I</b></p> <p><b>Part II</b></p>	<p><b>Economic Security &amp; SWL</b></p> <p>Background and Context</p> <ul style="list-style-type: none"> <li>• Poverty</li> <li>• Income Assistance</li> </ul> <p>Readings: CB Articles 8 and 9</p> <p>Speaker: TBA</p>
4.	<p><b>Sept. 29</b></p> <p><b>Part I</b></p> <p><b>Part II</b></p>	<p><b>The Historical Development of SWL in Canada (cont’d)</b> The Creation of the “Welfare State”</p> <ul style="list-style-type: none"> <li>• 1966 to 2004</li> </ul> <p>Readings: CB Articles 3 to 7</p> <p><b>SWL Programs: Their Nature and Effects</b> Case Study: Un/Employment Insurance</p> <ul style="list-style-type: none"> <li>• From its origins to the present day</li> <li>• The Complexities of a SWL program: an analysis of the nature of a social welfare program</li> </ul> <p>Readings: CB Articles 10 to 12</p>
5.	<p><b>Oct. 6</b></p> <p><b>Part I</b></p> <p><b>Part II</b></p>	<p><b>The Nature and Effects of SWL Programs (cont’d)</b> Case Study: Un/Employment Insurance</p> <p><b>The Implementation of Social Welfare Law: Part I</b> Case Study: Income Assistance Readings: CB: Articles 13 and 14</p>
6.	<p><b>Oct. 13</b></p> <p><b>Part I</b></p> <p><b>Part II</b></p>	<p><b>The Implementation of Social Welfare Law: Part I (cont’d)</b> Case Study: Income Assistance</p> <p><b>The Implementation of Social Welfare Law: Part II</b> Academic Analysis</p>

		Readings: CB Articles 15 and 16
7.	<b>Oct. 20</b>	<b>The Practice of SWL</b> Speakers: TBA
8.	<b>Oct. 27</b>	<b>The International Context</b> Universal Declaration of Human Rights International Covenant on Economic, Social and Cultural Rights Readings: CB Articles 17 to 21
9.	<b>Nov. 3</b>	<b>Health Care &amp; SWL through Litigation: Part I</b>
	<b>Part I</b>	The Movie: "Fix"
	<b>Part II</b>	<i>PHS Community Services Society v. A.G. of Canada</i>
10.	<b>Nov. 10</b>	<b>Health Care &amp; SWL through Litigation: Part II</b> Readings 1. <i>Eldridge</i> 2. <i>Auton</i> 3. <i>Chaoulli</i>
11.	<b>Nov. 17</b>	<b>Current Directions in SWL: Poverty Reduction Plans</b> Readings: TBA
12.	<b>Nov. 24</b>	<b>Student Presentations</b>
13.	<b>Dec. 1</b>	<b>Student Presentations</b>

## The End of the Course

### 5. Evaluation

The evaluation for the course will be in two parts.

#### **I. Short Assignment: Value 15 Marks**

This assignment will consist of two to four questions and the maximum length for assignments submitted will be a total of five pages. The questions will address topics covered in the course materials and the class lectures and discussions. No research is expected or required for this assignment.

Subject to change, the distribution and due dates for this assignment are as follows.

Date distributed: November 3<sup>rd</sup>, 2010

Date Due: November 10<sup>th</sup>, 2010

## **II. Course Paper: Value 85 Marks**

A 22 – 24 page research paper that presents an in depth study of a topic in Canadian social welfare law. Given the nature and scope of the course, students have considerable latitude in selecting their topic. Depending on the specific topic, papers of high quality papers may consider:

- the social context of the social welfare law studied,
- the values and interests relating to the specific area of law chosen, and
- the impact of social welfare law on the social reality it is created to address.

With permission of the instructor, students may work in groups on this assignment. In this case the length of the paper will be 22 to 24 pages multiplied by the number of students working on the paper.

Students must submit a one page description of their paper proposal no later than October 6<sup>th</sup>. This should include:

1. the general topic area of the paper,
2. possibilities for a more specific focus for the paper,
3. a preliminary outline of the structure and parts of the paper, and
4. a preliminary list of sources.

**Due Date:** December 2<sup>nd</sup>, 2010.

### **General Comments**

Research papers can be cross provincial or international comparisons of social welfare law, or the interrelation of social welfare legislation. Papers that are purely descriptive and lack depth of analysis will tend to receive lower grades.

It is common that papers quickly expand beyond what can be well analyzed in 22 to 24 pages. Be aware of this as you choose your topic and develop your paper. Your paper will be better if it analyzes in depth a specific narrow topic in an area of social welfare than if it consists of a general survey of a broad topic.

### **An Option to Consider**

Students may also work on a topic which is suggested by or helpful to a community organization. Students considering this option should be aware that the staff of many community organizations have multiple pressing responsibilities and that this can limit the extent of the student's collaboration with the organization.

Under this option, with the permission of the instructor, part of the work submitted for evaluation can be materials that would be used for educational or advocacy purposes.

This option often works best when a student works with an organization with which they currently work or with they have worked in the past.

### **Page and Format Requirements**

Pages: 22-24 (per student)

Page size: 8.5" x 11"  
 Font: 12 pt. Times New Roman  
 Lines: Double spaced  
 Margins: 1" on each side  
 Footnotes or Endnotes: 10 pt. Times New Roman, single spaced

The page limit is exclusive of the title page, the bibliography and any appendices. It includes footnotes and endnotes. All papers must have a bibliography.

I recommend that you include an appendix if your paper references statutory provisions.

### The Major Paper Option

I am open to supervising a limited number of major papers in this course. Due to the work that supervision entails, the number of papers I accept will be limited. If you are interested in this possibility, please enquire from the front office the time requirements for applying for this, and please contact me by the end of the second week of the course.

## 6. Grading

This course uses the Faculty of Law grading system:

Letter Grade	Grade Point Value	Percentage Value	Narrative Description
A+	9	90-100%	Exceptional, outstanding, and excellent performance, normally achieved by a minority of students. These grades indicate a student who is self-initiating, exceeds expectation, and has an insightful grasp of subject matter.
A	8	85-89%	
A-	7	80-84%	
B+	6	75-79%	Very good, good, and solid performance, normally achieved by the largest number of students. These grades indicate a good grasp of subject matter or excellent grasp in one area balanced with satisfactory grasp in the other area.
B	5	70-74%	
B-	4	65-69%	
C+	3	60-64%	Satisfactory or minimally satisfactory performance. These grades indicate a satisfactory performance and knowledge of subject matter.
C	2	55-59%	
D	1	50-54%	Marginal performance. A student receiving this grade demonstrates a superficial grasp of subject matter.
F	0	49 and below	Unsatisfactory performance.

In addition, please be aware of the following requirements and guidelines.

- To pass this course, students must complete all assignments. See penalties below for failure to do so.

- All assignments will be evaluated on thoroughness, accuracy and clarity of content. Grammar, spelling and citation always count!
- All assignments will be graded by numerical percentage. The final grade for this course will be calculated by adding the weighted numerical grades of all evaluation components and determining the equivalent letter grade for the total of those weighted components.
- Accommodation to ameliorate specific disadvantages affecting a student may be granted consistent with Faculty of Law policy, on application to the course instructor and the Associate Dean

### **Penalties for Failure to Complete Assignments and Failure to Meet Deadlines**

The Faculty policy concerning deadlines for assignments is as follows:

“The faculty expects assignments to be submitted on time; students who are unable to meet a deadline are expected to discuss the matter with their professor. Whether or not an extension of time is granted is within the discretion of the professor and conditional upon the student providing a reasonable excuse. Students who fail, without reasonable excuse, to meet deadlines for written assignments may be penalized in accordance with the grading and penalty assessment policy set by the particular professor, filed with the Dean and communicated to the class at the beginning of the class term.

Appeals against rejection of a student request for additional time to complete the paper, or appeals against an allegedly unfair penalty assessment scheme may be made to the Studies Committee.”

In Law 333 the grading and penalty assessment policy is as follows:

If you fail to complete and submit an assignment in this course by the scheduled due date and time without my prior approval of an extension, your grade for that assignment will be reduced by 5 % of the total mark value of the assignment per day for every day, or part of a day, that the assignment is late, including weekends. For example, if the assignment is worth 50 of the 100 marks for the course, then a 5 % reduction equals 2.5 marks.

If you fail to complete an assignment in this course without instructor permission you will receive an “F” as your final grade for this course.

### **Academic Integrity**

As part of the academic community of both the Faculty of Law and the University as a whole, academic integrity is centrally important in the work of faculty and students.

Please consult the University Calendar for policies respecting paraphrasing, plagiarism, and cheating. The policy on academic integrity can be found in the University of Victoria Calendar 2008-09 on the University’s website at the following address:

<http://web.uvic.ca/calendar2008/FACS/UnIn/UARe/PoAcI.html>.

If you have any concerns or questions, or require clarification about any matters related to academic integrity, please do not hesitate to drop by my office or to send me an e-mail. You may also, of course, consult Professor Heather Raven, Associate Dean Academic and Student Relations.

## 7. Other Important Notices

### **Classroom Climate**

The University of Victoria and the Faculty of Law are committed to promoting, providing and protecting a positive, supportive and safe learning and working environment for all its members. As an instructor, my goal is to establish an inclusive, respectful, and diverse classroom environment in which all class members feel welcomed and equally able to contribute to class discussions. To achieve this, I as instructor and you as students must endeavor to be respectful in our language, in our examples, and in the manner in which we conduct discussions and group work. If concerns arise during the term about the climate of the class, please feel free to discuss them with me or the Associate Dean.

Regarding laptop computers, please extend me the courtesy of not displaying on your laptops material that is not related to the class. Students may not record the class without my permission. Also, please do your utmost to prevent your electronic equipment of any kind from adding to the soundscape of the class.

### **Illness, Disability, Family Circumstances Accommodation**

The Faculty of Law provides reasonable accommodation to students on the basis of factors such as illness, disability, family circumstances, family or personal emergencies or affliction, or other similar special needs, when such factors interfere with the ability of a student to attend or to complete assignments or examinations at regularly scheduled dates or in other circumstances. Accommodation to enable religious observance is also provided. Students should feel free to consult me or the Associate Dean of Academic and Student Relations (Kim Hart-Wensley) regarding such matters.

### **Other Faculty Regulations and Policies**

Students must ensure that they are familiar with all other regulations and policies pertaining to their status as students.

The academic regulations and policies of the Faculty of Law can be found on the Faculty of Law website at [http://www.law.uvic.ca/Current\\_Students/Academic\\_Regs/associate\\_dean.html](http://www.law.uvic.ca/Current_Students/Academic_Regs/associate_dean.html).

Questions about these regulations and policies should be directed to Professor Heather Raven, Associate Dean Academic and Student Relations.

Regulations of the University can be found in the University of Victoria Calendar, 2009-2010, available online at <http://web.uvic.ca/calendar2009/index.html>. Faculty of Law academic regulations are also set out in the University Calendar at the following address: <http://web.uvic.ca/calendar2008/FACS/FoLa/FARe.html>.

