

Social Welfare, Social Justice & Human Rights SWK 4420

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“Social progress and development shall be founded on respect for the dignity and value of the human person and shall ensure the promotion of human rights and social justice.”

– UN Declaration on Social Progress and Development, 1969

***No one has come up with an answer to the key question:
How is social justice possible in the global age?”***

– Ulrich Beck, 2000.

“Maybe ... they're embarrassed at answering the obvious -- that there is a great deal of poverty in Canada and yet it's such a rich country,” suggested committee member Ariranga Pillay, chief justice of the supreme court of Mauritius.

– during UN review of Canada's compliance with the Covenant on ESCR, Nov., 1998

“Our generation, and I say particularly to the students present, your generation, have the hardest task: the laws are there, the international mechanisms have been established, and can be improved ... but the essential challenge is to implement ... to make a reality of human rights for all.”

– Mary Robinson, UN High Commissioner for Human Rights, 1998

Course Rationale and Significance

Human rights are based on respect for the dignity and worth of all human beings. They are universal and inalienable. All human rights violations are acts that disregard human dignity and the rule of law. Though human rights are something most people consider desirable they are not understood very well. This is particularly the case with economic, social and cultural rights – the focus of this course.

All societies have rules and norms about who gets what and by what means. In this sense all questions about justice are questions about *social* justice. The social realities and political demands associated with economic restructuring, globalization, government cutbacks and ‘devolution’ have given social justice claims a renewed significance.

Wealthy nations such as Canada generally have good human rights records *relative* to most other nations and with respect to *some* human rights for *some* groups. As the Canadian Human Rights Commission noted recently, however, “a significant gap persists between the rights that have been won in law and the reality of people’s day-to-day lives.”

Canada has been subject to severe criticism by the United Nations for its performance on social and economic rights. In May 1993 and again in December 1998 the United Nations Committee on Economic, Social and Cultural Rights issued highly critical reviews of Canada's compliance with the International Covenant on Economic, Social and Cultural Rights (ICESCR). In 1999 the UN Human Rights Committee in New York was also highly critical of Canada's compliance with the International Covenant on Civil and Political Rights (ICCPR). We will review these reports and Canada's response to them.

Learning Objectives

Social workers and other professionals who work with a diverse range of individuals, groups and communities have an obligation to not only recognize and respect all human rights, but to fully understand the nature of our rights and to help promote their realization.

Ethical professional practice must begin with a deep understanding of the nature of discrimination, injustice and our obligation to respect and implement all human rights. The social, economic and cultural rights, which most citizens know very little about, are the focus of the course.

This course helps connect social welfare issues, social justice campaigns and the struggles for greater implementation of economic and social rights. The context is a culturally diverse city (Toronto) and country in a world facing dramatic change due to economic, social and cultural globalization.

The objectives of this course are :

- To critically assess and gain an improved understanding of the theoretical and philosophical foundations of human rights in the context of globalization, a changing welfare system, and a culturally diverse city (Toronto), country and globe.
- To better understand the reasons underlying the different ways in which the term "social justice" is used (or avoided) today, and for students to develop a defensible working definition for themselves.
- To gain a detailed knowledge of the issues, debates and methods associated with the links between social welfare, social justice and human rights.
- To better understand the practical implications of approaching social welfare and social justice issues from a human rights perspective.
- To gain an improved understanding of diversity issues relating to the topic of the course, including issues of 'race,' ethnicity, culture, gender, economic resources, sexual orientation, and ability.
- To allow each student to identify and pursue a major issue and debate in her/his particular area of practice and scholarship.

Some of the questions students should be able to answer much better as a result of taking this course include the following:

- Where do our rights come from?
 - What do we mean by 'social justice'?
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- What are economic, social and cultural rights and how are they different from civil and political rights?
- How can a focus on human rights help address discrimination, racism, sexism and other forms of oppression?
- In what ways are human rights ‘gendered’?
- What is the relationship between globalization and human rights?
- What are Canada’s human rights obligations under the international covenants?
- How can human rights monitoring and enforcement mechanisms be made more effective?

**International Federation of Social Workers
A Commitment to Human Rights & Social Justice**

Whereas the member organizations of IFSW vary widely in size of development and cultural context; and, Whereas the member organizations all share a common commitment to human rights and social justice; Be it Resolved that

-- For each Executive Meeting, the reports of the Regional Vice-Presidents include information about human rights/other predominant social issues within their Regions;

-- At each Executive Meeting, specific time be set aside to examine human rights/social issues to determine if, and how, IFSW resources may be directed to facilitate work being done to address these issues and/or to develop recommendations for action by member organizations.

IFSW General Meeting, 25-27 July 2000, Minutes, Montréal, Canada; Resolution Proposed by the Canadian Association of Social Workers Regarding Human Rights, <http://www.ifsw.org/Publications/4.8.9.pub.htm>

Educational Philosophy

This course is designed to support the Faculty’s commitment to “prepare graduates for ethical, competent, innovative and effective, professional social work practice” (FSW Mission Statement). It is conducted in manner in keeping with the University’s purpose of “fostering an academic community in which the learning and scholarship of every member may flourish, with vigilant protection for individual human rights, and a resolute commitment to the principles of equal opportunity, equity and justice.”

Within this overall philosophy students are encouraged to take initiative for their own professional development as life-long learners. Discussion is an important mode for sharing ideas, interrogating ones own analysis and building alternative frameworks. Principles of adult learning are supported: development of an educational climate that is conducive to openness and risk-taking, self-directed learning by taking initiative to identify one’s own learning needs, and by linking concepts presented in class to one’s own professional practice experiences.

Each session covers a specific issue or aspect of a topic. Students are expected to come prepared each week (a critical reading of the assigned literature) and participate in and contribute to the classroom discussions.

Required Readings

There is no textbook. The specific readings for each session are identified in the course outline. A photocopied reader will be available. Some of the readings are available online through the University library. The readings identified as 'supplemental' are optional and serve as a bibliography of additional literature on the topic of the week.

Key Human Rights Reference Resources

The following books are key reference works relating to the general area of human rights and to economic and social rights in particular.

ON THE HISTORY & EVOLUTION OF HUMAN RIGHTS:

Robertson, A.H. and J.G. Merrills (1996) *Human Rights in the World: An Introduction to the Study of the International Protection of Human Rights*, 4th edition, Manchester University Press.

ON HUMAN RIGHTS LAW & POLITICS IN GENERAL:

Steiner, Henry J. and Philip Alston (2000) *International Human Rights in Context: Law, Politics, Morals – Text and Materials*, 2nd Edition, Oxford University Press. 1,497 pages.

ON THE UNITED NATIONS & HUMAN RIGHTS:

Alston, Philip, ed. (1992) *The United Nations and Human Rights: A Critical Appraisal*, Oxford: Clarendon Press.

ON THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS:

Holmes, Stephen and Cass R. Sunstein (1999) *The Cost of Rights: Why Liberty Depends on Taxes*, NY: WW Norton.

Craven, Mathew C.R. (1995) *The International Covenant on Economic, Social and Cultural Rights: A Perspective on its Development*, Oxford: Clarendon Press.

The following websites provide access to online human rights resources.

RESEARCH GUIDE TO HUMAN RIGHTS: <http://www.spfo.unibo.it/spolfo/HRLAW.htm>

This site provides an extensive set of annotated links to human rights resources and information the WWW. There are links to treaties, documents and general sites. The links to treaties and documents are quite extensive, with most being to full-text versions. A very good jumping-off point.

HUMAN RIGHTS WEB: <http://www.hrweb.org/>

Human Rights Web contains general information on human rights, human rights documents from the UN and elsewhere, and a lengthy set of links to human rights related pages, many of which are well annotated. The site has a very basic layout with a low graphics load for easy downloading and quick navigation.

DIANA HOME PAGE: <http://diana.law.yale.edu/>

DIANA is a large co-operative database on human rights and international law, involving four distinct WWW servers at Yale Law School Library, Bora Laskin Law Library at the University of Toronto, the Law Library at the University of Cincinnati College of Law, and the University of Minnesota Human Rights Law Library.

Course Requirements

1. **Readings & Classroom Participation** (10%). The quality of the course depends a great deal on the quality of discussion in the classroom. All students are expected to come to class fully prepared and ready to contribute to the discussion. Students are expected to complete the designated readings prior to class. The readings identified as supplemental are not included in the reader. They serve as a guide to related literature on the topic of the session.
 2. **Weekly Notes on Readings, Session 3 and Sessions 5 to 8** (10%): Submit notes on each reading and a brief analytic comment on the set of readings each week. These must be submitted at the end of class each Monday.
NOTES: The notes are for your use. There is no one expected format. I assume you will highlight or underline items on the copy of the reading. Your notes will then, in brief point form, refer to points you considering interesting in each of the required readings.
ANALYSIS: At the top of your notes insert a several paragraph (or point form) analytical/critical comments on the group of readings for that week. These are your thoughts. They can comment on common themes, different positions on key issues, identify links with other issues covered in the course, etc. They will be graded credit / non-credit.
 3. **One Short Paper** (30%). Social justice is one of the ‘essentially contested concepts.’ There is and can be no easy approach to defining and applying the concept. A short paper on the meaning of “social justice” in relation to social work and social welfare (firm maximum 9000 words) is **due on January 29** (the day we discuss ‘social justice’ in class). This paper must be submitted that day. You do not submit the usual notes on the readings that day. The paper presents your analysis and conclusions about what social justice means.
 4. **Case Study Presentation and Written Report** (50%). Students will research and critically examine the literature and current debates relating to one human rights topic within economic, social and cultural rights (e.g., the rights of the child, women, refugees, minorities, the elderly; the right to food, health care, education, social services, an adequate standard of living, development, etc.; or a particular issue area, e.g., discrimination, poverty and human rights, collective rights, the role of NGOs, etc.). Activities and deadlines:
Topic Proposal: on **Feb. 5** submit a one or two page outline of the topic to be addressed (including a list of key questions and issues and a few initial citations). Make an appointment to discuss the topic.
Presentation: present the findings in Part II of the course (maximum 10 minute presentation of the key issues, analysis, argument with a 1 or 2 page handout);
Final Paper: At the end of the term submit the final written report (a research paper, about 10 to 15 pages plus bibliography and appendix).
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Course Organization and Schedule

The course is divided into two parts. The first covers many key issues, with a focus on theory, concepts and history. Part II provides an opportunity for students to select and explore issues/topics.

OUTLINE

Part I: Theory, Concepts, Issues

1. Introduction to the Course (Jan. 8)
2. The United Nations, Human Rights, Human Development and Canada's Record (Jan 15)
3. Globalization and Social Welfare (Jan. 22)
4. What is Social Justice? (Jan. 29)
5. Economic and Social Rights: A Liberty or a Subsidy? (Feb. 5)
6. What are Hu(man) Rights? In what ways are they 'Gendered'? (Feb. 12)
7. Four Issues: Discrimination, Cultural Diversity, Cultural Relativism, and Group Rights (Feb. 26)
8. A Justiciable Social Charter in Canada's Constitution? (March 5)

Part II: Student Case Studies

9. ESCR Case Study: The Right to Adequate Housing (March 12)
10. ESCR Student Case Studies #1 (March 19)
11. ESCR Student Case Studies #2 (March 26)
12. ESCR Student Case Studies #3 (April 2)

Evaluation Criteria

“Grades are a measure of the performance of a student in individual courses. Each student shall be judged on the basis of how well he or she has command of the course materials.” from *U of T School of Graduate Studies 1998-99 Calendar*, p.26.

A. Excellent. Exceptional performance in which there is strong evidence of original thinking, good organization, capacity to analyze and synthesize; a superior grasp of the subject matter with sound critical evaluations; evidence of a knowledge base derived from extensive reading of the literature.

B. Good. Good performance in which there is evidence of a grasp of the subject matter, some evidence of critical capacity and analytic ability and reasonable understanding of the relevant issues under examination; evidence of familiarity with the literature.

FZ. Inadequate. Inadequate performance in which there is evidence of a superficial and/or confused understanding of the subject matter; weakness in critical and analytic skills, limited or irrelevant use of literature.

+ / - High / Low Distinction. Secondary distinctions are made within the A and B grade categories by using + and - to signify that the work is high or low within that letter grade.

READING LIST

1. Introduction to the Course

PART I. HUMAN RIGHTS: THEORY, CONCEPTS, ISSUES

2. The United Nations, Human Rights, Human Development and Canada's Record (Jan 15)

"Human Rights are violated within individual states, not in outer space or on the high seas."
– Steiner and Alston, 2000.

What human rights obligations do governments in Canada (federal, provincial, municipal) have beyond those in the Constitution, the Charter of Rights and Freedoms, and domestic legislation? Where does the UN's authority relating to human rights monitoring come from? How well is Canada doing in implementing the two international human rights covenants it signed in 1976?

READINGS

1. Pace, John (1998) "The Development of Human Rights Law in the United Nations; Its Control and Monitoring Machinery," *International Social Science Journal*, 50(4), Dec.
2. United Nations Development Program (2000) *Human Rights and Human Development*, Oxford University Press. Read the Overview summary. The full text of this report is available at: <http://www.undp.org/hdr2000/english/HDR2000.html>
3. Ross, D.P., K.J. Scott and P.J. Smith (2000) *Canadian Fact Book on Poverty*, Ottawa: Canadian Council on Social Development, Chapters 9 and 10.
4. Scott, Craig (1999) "Canada's International Human Rights Obligations and Disadvantaged Members of Society: Finally in the Spotlight?" *Constitutional Forum* (Edmonton), 10(4), Summer, pp 97-111.
5. UN Committee on Economic, Social and Cultural Rights, *Concluding Observation on Canada*, 1998; and UN Committee on Human Rights [monitors compliance on civil and political rights], *Concluding Observation on Canada*, 1999.

SUPPLEMENTAL READINGS

6. Inatiew, Michael (2000) *The Rights Revolution*, Toronto: Anansi.
7. Epp, Charles R. (1998) "Canada: A Great Experiment in Constitutional Engineering" and "Canada's Dramatic Rights Revolution and Its Sources," Chapters 9 and 10 in his *The Rights Revolution: Lawyers, Activists and Supreme Courts in Comparative Perspective*, U. of Chicago Press, 156-196.
8. Russell, Peter H. (1993) *Constitutional Odyssey: Can Canadians Become a Sovereign People?* 2nd edition, University of Toronto Press.

3. Globalization and Social Welfare (Jan. 22)

“Without a revolution, without even any change in laws or constitutions, an attack has been launched ‘in the normal course of business,’ as it were, upon the material life lines of modern national societies.” p.3.

“In the age of globalization, the major issue of social justice will have to be handled in a new way, both theoretically and politically.” p.6.

“Globalization changes not only the relations between and beyond national states and societies, but also the inner quality of the social and the political itself.” p.117

“The dilemma of social policy in the age of globality: economic development escapes the reach of national politics, whereas the resulting social problems cluster in the safety-net of the national state. ... No one has come up with an answer to the key question: How is social justice possible in the global age?” p.154. – Ulrich Beck, 2000.

READINGS

1. Chossudovsky, Michel (2000) *The Globalisation of Poverty: Impacts of IMF and World Bank Reforms,* Halifax: Fernwood Publications, Chapter 1, “The Globalisation of Poverty,” pp. 33-43.
2. Beck, Ulrich (2000) *What is Globalization?* Polity Press, Introduction, pp. 1-13; Chapter 4, “Errors of Globalization,” pp. 117-128, and “A social contract against exclusion?” pp. 152-155.
3. Mishra, Ramesh (2000) *Globalization and the Welfare State,* Edward Elgar, Chapter 1, “The Logic of Globalization: The Changing Content of the Welfare State,” pp. 1-17; and Chapter 7, “Towards a Global Social Policy,” pp. 111-131.
4. Enayati, J. and M. Hemmati (2000) “Tobin Tax for Social Development,” UNED-UK. <http://www.earthsummit2002.org/wssd/wssd5/wssd5tobin.htm>

SUPPLEMENTAL READINGS

5. McCorquodale, R. and R. Fairbrother (1999) “Globalization and Human Rights,” *Human Rights Quarterly*, 21(3), 735-766.
 6. Waters, Malcolm (1995) *Globalization,* London: Routledge.
 7. Felice, W.F. (1999) “The viability of the United Nations approach to economic and social human rights in a globalized economy,” *International Affairs*, 75(3), July.
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4. What is Social Justice? (Jan. 29)

“Canada is a prosperous, modern country. A nation of freedom and social justice.”

– Prime Minister Jean Chrétien, New Year address to the Nation, December 31, 1999.

“Canada is recognized for the way she stands on guard for social justice, peace and democracy.”

– Queen Elizabeth, Canada Day Speech, July 1, 1997.

Social justice is one of the ‘essentially contested concepts.’ There is and can be no easy – widely agreed upon – approach to defining and applying the concept. Though the academic debates of the 1970s and 1980s over how to define justice in the abstract continue, there is now a more applied and policy relevant body of literature emerging. In addition, there is the related and someone neglected question of *injustice*. Is a framework (whether conceptual or applied) based on social justice different from one based on social injustice?

READINGS

1. “What is Social Justice” from *Social Justice: Strategies for National Renewal, the Report of the [UK Labour Party] Commission on Social Justice*, London: Vintage, 1994.
2. Plant, Raymond (1998) “Why Social Justice?” Chapter 15 in D. Boucher and P. Kelly, eds., *Social Justice: From Hume to Walzer*, London: Routledge, 267-281.
3. Madood, Tariq (1998) “Racial Equality: Colour, Culture and Justice,” Chapter 11 in D. Boucher and P. Kelly, eds., *Social Justice: From Hume to Walzer*, London: Routledge, 200-214.
4. Simon, Thomas W. (1994) “Injustice versus Justice,” Chapter 1 of his *Democracy and Social Injustice: Law, Politics and Philosophy*, Boston: Rowman & Littlefield Publishers.

SUPPLEMENTAL READINGS

5. Solomon, Robert C. and Mark C. Murphy, eds. (1990) *What is Justice? Classic and Contemporary Readings*, Oxford U Press.
 6. Boucher, D and P. Kelly, eds. (1998) *Social Justice: From Hume to Walzer*, London: Routledge.
 7. Sunstein, Cass R. (1997) *Free Markets and Social Justice*, Oxford U. Press.
 8. Hayek, Friedrich A. (1978) *Law, Legislation and Liberty: The Mirage of Social Justice*, U of Chicago Press.
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5. Economic and Social Rights: A Liberty or a Subsidy? (Feb. 5)

What are 'economic, social and cultural' rights? How are they different from other human rights? Do these rights erode liberty and make people dependent on government handouts? Are they an ill-considered 20th century deviation from the original civil and political rights of the 18th century? What about the distinction between 'negative' and 'positive' rights – government *forbearance* versus government *performance*? How do economic and social rights relate in a practical way to addressing social justice issues?

READINGS

1. Stephen Holmes & Cass R. Sunstein (1999) *The Cost of Rights: Why Liberty Depends on Taxes*, NY: Norton, Chapters 1, 2, 6, 13, 14.
2. Alston, Philip (1997) "Making Economic and Social Rights Count: A Strategy for the Future," *Political Quarterly*, April-June, 68(2).
3. Pateman, Carole (1998) "Democracy, Freedom and Special Rights," Chapter 12 in D. Boucher and P. Kelly, eds., *Social Justice: From Hume to Walzer*, London: Routledge.
4. Alexander, A. & K. Jacobson (1999) Affirmative Action: A Critical Reconnaissance," *International Journal of Urban and Regional Research*, 23(3), 593-601.

SUPPLEMENTAL READINGS

5. Craven, Mathew C.R. (1995) "Economic, Social, and Cultural Rights and their Codification," Chapter 1 of his book *The International Covenant on Economic, Social and Cultural Rights: A Perspective on its Development*, Oxford: Clarendon Press, 6-29.
6. UN Fact Sheet on the Committee on Economic, Social and Cultural Rights.
<http://www.unhchr.ch/html/menu6/2/fact.htm>
7. Steiner, Henry J. and Philip Alston (1996) "Economic and Social Rights," Chapter 5 of their *International Human Rights in Context: Law, Politics, Morals*, Oxford: Clarendon Press, 256-328.
8. Craven, Matthew C.R. (1995) "The System of Supervision," Chapter 2 and "State Obligations," Chapter 3 of his book *The International Covenant on Economic, Social and Cultural Rights: A Perspective on its Development*, Oxford: Clarendon Press, 30-105, and 106-152.
9. Scott, Craig (1989) "The Interdependence and Permeability of Human Rights Norms: Towards a Partial Fusion of the International Covenants on Human Rights," *Osgoode Hall Law Journal*, 27(4), 769-878.
10. Siegel, R. (1985) "Socio-economic Human Rights: Past and Future," *Human Rights Quarterly*, 7.

6. What are Hu(man) Rights? In what ways are they ‘Gendered’? (Feb. 12)

Human rights: “a conceptual device ... that assigns priority to certain human or social attributes regarded as essential to the adequate functioning of a human being; that is intended to serve as a protective capsule for those attributes; and that appeals for deliberate action to ensure such protection.” – Michael Freedon, 1991.

“One of the tricks of the questions of gender and international law was to hear what was in the silence, because international law and the law of human rights on gender is about silences. That is what I was listening for. And silences were overwhelmingly what I heard in that week [at a human rights conference].” – Marilyn Waring, 1996, p, 123

“The real questions are: Who defines legitimate human rights issues and who decides where the state should enter and for what purposes? Women’s voices have been missing from these decisions for too long.” – Charlotte Bunch (1995:15)

READINGS

1. Freedon, Michael (1991) *Rights*, Minneapolis: U. of Minnesota Press, Chapter 1, “The Concept of Rights,” pp. 1-11; and Chapter 7, “Human Rights in Practice: A Sampling of Problems,” pp. 101-111.
2. Tomasevski, Katarina (1998) “Rights of Women: From Prohibition to Elimination of Discrimination,” *International Social Science Journal*, 50(4), Dec.
3. Waring, Marilyn (1996) *Three Masquerades: Essays on Equality, Work and Human Rights*, University of Toronto Press, Chapter 3, “Hu(man) Rights,” pp. 102-163.
4. Charlesworth, Hilary (1995) “Human Rights as Men’s Rights,” Chapter 15 in J. Peters and A. Wolper, eds., *Women’s Rights, Human Rights: International Feminist Perspectives*, NY: Routledge, 103-113.

SUPPLEMENTAL READINGS

5. Turner, Brian S. (1993) “Outline of a theory of human rights,” *Sociology: The Journal of the British Sociological Association*, 27(3), 489-512.
6. Fraser, A.S. (1999) “Becoming Human: The Origins and Development of Women’s Human Rights,” *Human Rights Quarterly*, 21(4), 853-906.
7. Shestack, Jerome J. (1998) “The Philosophic Foundations of Human Rights,” *Human Rights Quarterly*, 20(2), 201-234.
8. Bunch, Charlotte (1995) “Transforming Human Rights from a Feminist Perspective,” Chapter 1 in J. Peters and A. Wolper, eds., *Women’s Rights, Human Rights: International Feminist Perspectives*, NY: Routledge, 11-17.
9. Mahoney, Kathleen (1994) “Canadian Approaches to Equality Rights and Gender Equality in the Courts,” Chapter 19 of R.J. Cook, ed., *Human Rights of Women: National and International Perspectives*, Philadelphia: University of Pennsylvania Press, 427-461.
10. Reanda L. (1999) “Engendering the United Nations - The changing international agenda,” *European Journal of Womens Studies*, 6(1), Feb.

7. Four Issues: Discrimination, Cultural Diversity, Cultural Relativism, and Group Rights (Feb. 26)

READINGS

1. Sunstein, Cass R. (1997) "Why Markets Don't Stop Discrimination," Chapter 2 of his *Free Markets and Social Justice*, Oxford University Press, 151-166.
2. Espiell, H.G. (1998) "Universality of Human Rights and Cultural Diversity,"
3. Tilley, J.J. (2000) "Cultural Relativism," *Human Rights Quarterly*, 22(2), 501-547.
4. Felice, William F. (1996) "Conceptualizing Collective Human Rights," Chapter 1 of his *Taking Suffering Seriously: The Importance of Collective Human Rights*, State U of NY Press, 17-34.
5. Jones, P. (1999) "Human Rights, Group Rights, and Peoples' Rights," *Human Rights Quarterly*, 21(1), 80-107.

SUPPLEMENTAL READINGS

6. Craven, Mathew C.R. (1995) "Non-Discrimination and Equality" Chapter 4 of his book *The International Covenant on Economic, Social and Cultural Rights: A Perspective on its Development*, Oxford: Clarendon Press, 153-193.
 7. Hucker, John (1997) "Antidiscrimination Laws in Canada: Human Rights Commissions and the Search for Equity," *Human Rights Quarterly*, 19(3), 547-571.
 8. Eide, A (1995) "Cultural Rights as Individual Human Rights," Chapter 14 in *Economic, Social and Cultural Rights: A Textbook*.
 9. Steiner, Henry J. and Philip Alston (1996) "What are Rights, Are They Everywhere, and Everywhere the Same? Cultural Relativism," Chapter 4 of their *International Human Rights in Context: Law, Politics, Morals*, Oxford: Clarendon Press, pp. 166-255.
 10. Stavenhagen, R. (1992) "Universal Human Rights and the Cultures of Indigenous Peoples and Other Ethnic Groups: The Critical Frontier of the 1990's," in Asbjørn Eide and B. Hagtvet, *Human Rights in Perspective: A Global Assessment*, Oxford: Blackwell, 135-151.
 11. Messer, Ellen (1997) "Pluralist Approaches to Human Rights," *Journal of Anthropological Research*, 53(3), 293-317.
 12. Symonides, J. (1998) "Cultural rights: a neglected category of human rights," *International Social Science Journal*, 50(4), Dec.
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8. A Justiciable Social Charter in Canada's Constitution? (March 5)

READINGS

1. Ontario Ministry of Intergovernmental Affairs (1991) *A Canadian Social Charter: Making Our Shared Values Stronger, A Discussion Paper*, Toronto, September.
2. Draft Social Charter, 1992, drafted by a number of Canadian NGOs.
3. Balkan, Joel (1997) *Just Words: Constitutional Rights and Social Wrongs*, University of Toronto Press. Chapter 1, Introduction, 3-11; Chapter 9, What's Wrong with Social Rights, 134-141; and Chapter 10, Conclusion, 143-152.
4. Lessard, Hester (1997) "Creation Stories: Social Rights and Canada's Constitution," Chapter 3 in P. M. Evans and G. Wekerle, eds., *Women and the Canadian Welfare State: Challenges and Change*, UofT Press.

SUPPLEMENTAL READINGS

5. Mandel, Michael (1992) *The Charter of Rights and the Legalization of Politics in Canada*, Toronto: Thompson Educational.
 6. Echenberg, Havi *et al.* (1992) *A Social Charter for Canada? Perspectives on the Constitutional Entrenchment of Social Rights*, Toronto: C.D. Howe Institute.
 7. Drover, Glenn (1992) "Social Minima and Social Rights: Justifying Social Minima Socially," Chapter 10 in *Social Justice and the Constitution: Perspectives on a Social Union for Canada*, J. Bakan and D. Schneiderman, eds., Ottawa: Carleton U Press, 139-151.
 8. Gomez, Mario (1995) "Social Economic Rights and Human Rights Commissions," *Human Rights Quarterly*, 17, 155-169.
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PART II. CASE STUDIES
IMPLEMENTATION OF SPECIFIC
ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ESCR)

9. ESCR Case Study: The Right to Adequate Housing (March 12)

READINGS

1. Paul Martin, MP and Joe Fontana, MP (1990) "Adequate Shelter: A fundamental Human Right," Chapter 2 of their report: *Finding Room: Housing Solutions for the Future, Report of the National Liberal Caucus Task Force on Housing*, Ottawa.
2. Hulchanski, J.D. and Scott Leckie (2000) *The Human Right to Adequate Housing: Chronology of United Nations Activity, 1945 to 1999*, Geneva: COHRE, selections, including the 1991 "General Committee No. 4 on the Right to Adequate Housing."
3. Leckie, Scott (1996) "Housing Rights, Human Rights and Human Development: Intertwined and Inseparable," Part 2 of C.J. Dias and S. Leckie, *Human Development and Shelter: A Human Rights Perspective*, NY: United Nations Development Program, Occasional Papers, Special Issue, Habitat II Conference, 19-51.
4. Hulchanski, J.D. (2000) "People Without Housing – Homelessness is a Human Rights Violation," *Speaking About Rights*, pp. 16-17.

SUPPLEMENTAL READINGS

5. Eide, Asbjørn (1993) "Article 25," in A. Eide, et al., *The Universal Declaration of Human Rights: A Commentary*, Scandinavian University Press, 385-403.
6. Alston, Philip (1996) "Opinion: The U.S. and the Right to Housing - A Funny Thing Happened on the Way to the Forum," *EHRLR*, 2, 120-133.
7. Leckie, Scott (1998) "Another Step Towards Indivisibility: Identifying the Key Features of Violations of Economic, Social and Cultural Rights," *Human Rights Quarterly*, 20(1), 81-124.

10. ESCR Student Case Studies #1 (March 19)

11. ESCR Student Case Studies #2 (March 26)

12. ESCR Student Case Studies #3 (April 2)

POSSIBLE STUDENT TOPICS

- **The Role of NGOs and Civil Society**
Steiner, Henry J. and Philip Alston (1996) "The Role of Non-Governmental Organizations," Chapter 8 of their *International Human Rights in Context: Law, Politics, Morals*, Oxford: Clarendon Press, 456-499.
 - **ESCR and Social Development**
UN World Summit for Social Development (1995) *The Copenhagen Alternative Declaration*.
 - **Domestic Legal and Constitutional Issues**
Craven, Matthew C.R. (1993) "The Domestic Application of the International Covenant on Economic, Social and Cultural Rights," *Netherlands International Law Review*, XL, 367-404.
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From **"The Plight of the Poor in the Midst of Plenty," by Jeremy Waldron** (a review of *Collected Papers* by John Rawls), London Review of Books, Vol 21(14), July 15, 1999.

...

"A society, he [John Rawls] argued, is not well-ordered simply because most people in it are prospering. If there is nothing convincing or credible that the well-off majority can say to the impoverished or the homeless, for example, to show why the system that governs them both actually advances the interests of them both, then the society is . . . well, Rawls does not provide an antonym (except 'unjust', and I'll say something about that in a moment), but for now 'disordered' or 'poorly ordered' will do. For Rawls and those he has influenced, it is not enough to say of such a society that it is doing well on the whole, in the aggregate, or so far as average per capita income is concerned. A well-ordered society advances the good of each and all of its members, so that there is no one from whose gaze or plight we have to avert our eyes, no one whose complaints can be met only with lies or pious nonsense about following one's dream.

"That a decent society needs a fairer account of the relation between social and individual well-being than either the insensitive calculus of utilitarian aggregation or the lazy and complacent Pareto-criteria that have replaced it in modern economics - all that was well-known before Rawls drew attention to it. Statisticians had developed ways of measuring social inequality, the best known of which was the Gini index, drawing pair-wise comparisons between individual holdings over a large population, in effect measuring income concentration. (The index tells us, for example, that in the United States the inequality of family incomes increased 22.4 per cent from 1968 to 1994.)

"But the Gini index was not connected systematically with a broader normative theory that would enable us to mark the moral significance of what it indicated and resolve some of the indeterminacies in its application.

"On a quite different dimension, theorists of individual rights had also developed alternatives to the utilitarian consensus; but their principles were focused on very particular issues where individual freedom or well-being was at stake - civil liberties, religious toleration, voting rights - which they treated in a sort of 'line-item' way. Unlike the indices of the statistician, they did explore quite thoroughly the deeper significance of the particular shortcomings they revealed. But their critiques did not add up to any overall basis for social assessment.

"The papers in this volume reveal how early John Rawls became convinced that since social institutions impact on persons as a whole (how bad unemployment is depends partly on how health care is provided etc) they need to be evaluated as a whole, by an integrated system of principles. It is often said that Rawls wanted a moral alternative that would be as systematic as utilitarianism. But the quest for system was not just theoretical rivalry; it was also a response to how he conceived the subject-matter of social evaluation."