

School of Public Policy and Administration
Faculty of Liberal and Professional Studies

AP/PPAS/POLS 4130A 6.00 POLITICS, LAW AND THE COURTS

THE PURSUIT OF JUSTICE IN A DANGEROUS TIME

[updated version of this outline on the seminar Moodle site scheduled to go live in late August 2020]

2020-2021

TUESDAY 11:30 AM-2:30 PM EST

[Zoom info to be available on Moodle before class]

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Being held hostage in the quagmire of post-truth delusions, we could safeguard a scintilla of hope that whatever is left of our idealism is not destined for demolition by daring ourselves to ask: does it have to be this way?

1. Seminar Overview: What kind of justice do you want?

Justice is blind. Is it just? In what way? Is that what you have? Is that what you want? Are you living in a just world? What kind of a just world do you want to live in? How does the battle of ideas affect justice, judicial decision making and civil society?

In our time together we will find out more. Given the pandemic and the injustices it amplifies, in 2020-21 we explore an area of law and politics that is often overlooked – the social economic rights.

Law is politics – all the more so now than ever. In this academic year we embark on a quest to delve into the conflicts of different perspectives on how we as a people should organize ourselves in order to determine what we could aspire to be as a just society.

2. Learning Outcomes: Who you want to be determines what you will learn

The learning outcomes could be transformative if students want them to be, no matter what the subject of a seminar or a course is. Being held hostage in the quagmire of post-truth delusions, we could safeguard a scintilla of hope that whatever is left of our idealism is not destined for demolition by daring ourselves to ask: does it have to be this way? If students are willing, at the end of our time together, students would be able to ask the tough questions needed in challenging the status quo.

Like university studies in general, the seminar is designed to develop your capabilities in critical thinking, information literacy, effective communication as well as your sense of your responsibility.

Critical thinking. A big challenge in your daily experience is to live with ambiguity. The world is not neatly organized, and it won't organize itself for you. But you can make sense of what you initially see as disorganization for yourself if you want to. Hopefully this seminar will give you enough opportunities to learn to face the messy world.

Information literacy. In our society another big challenge is to live with information overload. The massive information flow does not come with navigation manuals or come in handouts or PowerPoint slides. But you can separate the useful information from the noise if you want to. Hopefully this seminar will give you enough opportunities to learn to separate the good from the bad information.

Effective communication. Whether some ideas become entrenched often rests on how they are argued. Agenda setting is cruel as at times the most compelling arguments beat the most sensible ideas. But you can be precise and concise in making your arguments if you want to. Hopefully the seminar will give you enough opportunities to learn to cut to the chase.

A sense of your responsibility. University education is to enlighten, not to indoctrinate to conform. It incurs opportunity costs for not just you but also for our society. Sadly, nowadays our society allows university education to become just a big broken promise that mutates into a gigantic opportunity loss. But if you want to you can help make things right by working hard to be responsible, for example, starting as responsible students by solving the problems you are asked to solve on your own rather than just giving up and asking others to solve them for you. Hopefully the seminar will give you enough opportunities to learn to nurture your sense of responsibility.

On how to learn in this seminar, here are three actionable suggestions:

- **Pay attention.** Once you start paying attention many seemingly unanswerable questions will end up as information that you can look up.
- **Prepare relentlessly.** Students are expected to do most of their work outside the classroom both before and after class, and they are expected to demonstrate their outside work with their level of engagements inside the classroom.
- **Own it.** When you have a problem, look for the solution yourself. Whenever something does not go your way, ask "What have I done wrong and how can I do better?"

At university you learn to become not only a productive employee but also an informed and responsible citizen. If you learn to think about justice in a way to appreciate its important role in civil society, you will have achieved something. Your seminar grade is just a reflection of your performance in the seminar, but you are the only one who really knows whether you are making any progress in developing your sense of critical thinking, information literacy and effective communication as well as responsibility in your path to learn to become a lifelong learner. A grade is just a grade. In five years no one will care what you get as a student in this seminar. But people do

care who you are as a human being – whether you care not only about your own self-interests but also about others' well-being.

Students will earn the grades they get and get the grades they earn. Students are expected to take full responsibilities for studying and keeping up with the fast pace of the seminar. No special consideration will be given to students who do not get the grades they want due to reasons not required to be considered by university policies. Students should not negotiate for marks they did not earn, and all academic queries on marks if warranted should be made on an academic basis. For example, claiming that you have worked very hard or you have never received such a low grade will not be sufficient. By the same token, claiming that you need such a grade to advance to the next level, keep your scholarship or graduate and get a job will not be sufficient either.

3. Seminar Materials: You can learn to connect the dots and think about the big picture

The seminar materials are by and large experimental, i.e. definitely not the usual materials students would expect. The points of departure for the classes are listed in the schedule. More materials including links to caselaw, academic journal articles, government as well as think tank reports and news stories are slated to be assigned throughout the seminar to optimize the learning experience of students. No one can predict the future accurately but we all could learn from the past to not only understand the present but also make an educated guess about the future. In working through the seminar materials, students will gain a sense of the convergence of the past, the present and the future.

4. Teaching Approach: We will work together like a research group

Critiquing is easy, but solving problems is hard. The teaching approach is to encourage students to identify problems in the pursuit of justice and seek solutions that tackle the problems. No matter how many times one says the system has a problem, the problem will remain unless one finds a workable solution to the problem.

The seminar adopts an integrated perspective by thinking about the justice system as a complex system. Instead of considering politics, law and courts as separate from each other the seminar will start with the idea that politics, law and courts do interact with each other. The perspective will enable us view justice, judicial decision making and civil society through realistic lens. Hopefully through an exploration of complexity we will emerge with a deeper understanding of the kind of justice we have and the kind of justice we want to have.

The seminar is designed for in-class discussions so being able to attend all classes is a prerequisite for students to learn something in the seminar. Through in-class discussions we will learn from each other and we will learn as a research group. Incidentally, everyone can learn something, and it mainly depends on what one is willing to do to learn when learning opportunities arise. As the seminar is run like a research group, students will receive all feedbacks in class so all students can learn together. Students are encouraged to learn to become their own harshest critics.

Given the pedagogical design of the seminar, no class is designed to be missed. Students missing any class will be at their own peril no matter how hard I try to accommodate their absence. Students are involved directly and indirectly in finalizing assignment submission logistics through in-class discussions. Not all of such info will be available on Moodle.

To encourage open and frank discussion of law and politics, the seminar will NOT be recorded in order to try to protect all parties involved. Please note that informed consent is required to record anyone or anything during the seminar. As there are multiple sections of the seminar, no doubt students can find a suitable section with recordings that will suit their needs if a seminar with recordings will work best with their preferred learning styles.

5. Evaluation: What do you need to learn for your careers and your lives?

The evaluation focuses on basic academic skills that students are expected to learn in university studies – information literacy, critical thinking and effective communication as well as responsibility. All students will be graded and ranked in comparison to their peers. Very specific submission and presentation protocols of work done for the seminar will only be explained in class. Failure to follow the protocols could lead to failures in the seminar. A final grade for the seminar will be given to each student at the end of the academic year based on the following components, all require the practice of critical thinking as well as responsibility and more.

5.1. **At least five short research assignments (25%).** The purpose of working on short research assignments is to develop intellectual curiosity. For each assignment, each student is required to prepare a few pertinent questions sparked by the point of departure for a class in the seminar schedule near the end of this outline. The questions are expected to reflect each student's intellectual curiosity. All students are expected to draw upon the submissions of their peers for in-class discussions. Additional research to further develop such curiosity is expected. In coming up with the questions, students are expected to learn to search for and work with law and politics materials efficiently and effectively in order to engage in the ideas of the materials critically in in-class discussions. That is, the search is part of the learning experience and thus you have to do it on your own in your own way. The full content of each class won't be revealed until a few hours before each class, and students are asked NOT to work through any of such content for each class other than the point of departure for the class before class. More info will be provided in the first class.

5.2. **Reading diary (40%).** The purpose of requiring students to read a part of a book every day throughout the academic year is to encourage students to develop an academic habit. Each student is supposed to log what they read each day in a special Excel spreadsheet available on Moodle. To check on students' reading progress, unannounced calls for immediate submission of the diary up to that point will be made in some classes so students are expected to have their up-to-date log ready to be submitted each class. For simplicity and costs, students are required to use Kindle books as they can be read across platforms as students can read Kindle books using the free Kindle apps on Windows, MacOS, IOS and Android devices. The key is to read EVERY day. The selected books will be revealed in the first class.

- 5.3. **Capstone project (35%).** The purpose is to test whether students have made significant progress in developing their basic academic skills. To start preparing for the capstone project from the start of the academic year, students are expected to make use of the points of departures in the seminar outline to come up with questions on issues they are interested in whether they are assigned to tackle the short research assignments above or not. They will take good notes on possible answers to their questions they find in their research before the start of each class. During each class they are expected to take good notes of the in-class discussions on the additional materials for the class available on Moodle when the class starts. After the end of each class they are expected to take good notes of their thoughts on all the content related to the class after the end of the class. Using ALL their notes they will be required to prepare the capstone project to be submitted after the end of the year-long seminar. More info including the topic of the capstone project will be discussed in class around the Reading Week in the Winter term.

All students are required to use their York University email accounts – perhaps through Outlook – to submit all work to taxlaw@yorku.ca [not thwong@yorku.ca]. Logistical information will be discussed in classes.

At times functions follow forms. To give you a sense of this part of the design for the seminar, the subjects of all your email submissions are required to have “4130-(your last name)-(your first name)-(your student ID)-(the subject of the email depending on the assignment)”. The “-“ is a hyphen.

Following the very specific submission protocol that you are expected to note down in class is very important as it shows whether students can do what needs to be done with due care. Work submitted not in accordance with the very specific submission protocol will not be graded.

6. Tentative Schedule [changes may be made along the way to enhance the students' learning experience]

Below are the class number, the date for the class, the topic of the class and a point of departure of the discussion in the class. Full content for each class including links to caselaw, academic journal articles, government as well as think tank reports and news stories will be unveiled on Moodle a few hours before each class.

THE PURSUIT OF JUSTICE

Class 1 – Sept. 15: BLM

Legal Academics against anti-Black Racism

[[https://docs.google.com/forms/d/1MYE8TuEitkwYigadCHiboi - Gif2jIhPoghzwHHaBR8/viewform?edit_requested=true](https://docs.google.com/forms/d/1MYE8TuEitkwYigadCHiboi-Gif2jIhPoghzwHHaBR8/viewform?edit_requested=true)]

Management academics against anti-Black racism

[https://docs.google.com/forms/d/e/1FAIpQLSetB43D6dS3lIFU-mZLlTvwDtWo-zck_UmmAVHw8snbX8pK9A/viewform]

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Class 2 – Sept. 22: Law is Politics

The right to what? [http://www.socialrightsonario.ca/wp-content/uploads/2013/06/Adequate_Living_Booklet_ONTARIO_Final.pdf]

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Class 3 – Sept. 29: Everyone Knows about Oakes?

The test [https://ojen.ca/wp-content/uploads/In-Brief_STUDENT_Section-1-and-Oakes_o.pdf]

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Class 4 – Oct. 6: Two Kinds of Freedoms

TWU [http://ablawg.ca/wp-content/uploads/2018/07/Blog_AW_AS_TWU_Law_Society_Decisions_July2018.pdf]

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IN A DANGEROUS TIME

Class 5 – Oct. 20: Haves v Have-nots

Under the Canadian Charter [<http://www.socialrights.ca/domestic-political/documents/cambridge.pdf>]

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Class 6 – Oct. 27: Still Litigating for Social Change?

Sometimes love just aren't enough ... [<http://socialrights.ca>]

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RACE IS NOT JUST ABOUT COLOUR**Class 7 – Nov. 3: Systemic Racism**

The look of definitely not love [<https://www.ctvnews.ca/canada/five-charts-that-show-what-systemic-racism-looks-like-in-canada-1.4970352>]

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Class 8 – Nov. 10: The Network Effect

Do we get along? [https://www.environicsinstitute.org/docs/default-source/project-documents/race-relations-2019-survey/race-relations-in-canada-2019-survey---final-report-english.pdf?sfvrsn=ef8d61e3_2]

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GENDER IS NOT JUST ABOUT SEX**Class 9 – Nov. 17: Missing Women**

Pickton [<https://www.cbc.ca/news/canada/toronto/bruce-mcarthur-robert-pickton-missing-persons-1.4517472>]

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Class 10 – Nov. 24: Deterrence, The Wrong Kind

Jian Ghomeshi [<https://www.cbc.ca/news/canada/toronto/ghomeshi-trial-sexual-assault-chill-1.3441059>]

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CLASS IS NOT JUST ABOUT MONEY**Class 11 – Dec. 1: Everyone is Vulnerable**

Right to be safe [<https://www.thestar.com/news/gta/2020/05/14/do-people-have-the-right-to-a-safe-place-to-self-isolate-during-a-pandemic-a-lawsuit-over-torontos-shelter-system-heads-to-court.html>]

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Class 12 – Dec. 8: Otherwise, we Are complicit

Toward reconciliation [https://www.environicsinstitute.org/docs/default-source/default-document-library/3rd-confed-survey-report-final-oct8409422a163c841928b54fid5bfbaa24e.pdf?sfvrsn=c731d090_o]

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WELL-BEING, FOR SOME MORE THAN OTHERS?**Class 13 – Jan. 12: Public Health**

Universalism [<http://irpp.org/wp-content/uploads/assets/po/health-care/nanos.pdf>]

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Class 14 – Jan. 19: Going Private

Brian Day [<https://www.cbc.ca/news/canada/british-columbia/brian-day-cambie-surgery-centre-bc-supreme-court-1.5479574>]

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ABSOLUTE POWER, FOR WHOM EXACTLY?**Class 15 – Jan. 26: Living Wage**

Less is exactly that – less [<http://lawofwork.ca/the-case-for-sub-provincial-minimum-wages/>]

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Class 16 – Feb. 2: Unionization as Public Good

Don't back down [<https://ipolitics.ca/2016/11/10/supreme-court-affirms-right-to-collective-bargaining-in-swift-ruling/>]

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Class 17 – Feb. 9: Are You an Employee?

Some gigs are gags [<https://www.cbc.ca/news/politics/stefanovich-supreme-court-uber-class-action-decision-1.5626853>]

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Class 18 – Feb. 23: Some Family Values

If Men could get pregnant ... [<https://www.canada.ca/en/services/benefits/ei/ei-maternity-parental.html>]

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THE DAY AFTER TOMORROW LOOKS STARK

Class 19 – Mar. 2: Green New Deal?

For these times they are a-changin'? [<https://www.theglobeandmail.com/canada/british-columbia/article-15-canadian-youths-to-launch-climate-lawsuit-against-ottawa-claiming/>]

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Class 20 – Mar. 9: Carbon Tax

Whether it sticks [<https://www.ontario.ca/page/federal-carbon-tax-transparency-sticker>]

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Class 21 – Mar. 16: Pipeline

Silence is ... [<https://www.cbc.ca/news/canada/british-columbia/trans-mountain-pipeline-appeals-supreme-court-of-canada-1.5486592>]

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ON THE PRECIPICE OF A FUTURE THAT WILL NEVER COME

Class 22 – Mar. 23: An Honesty Problem

Tax avoidance [<https://policyoptions.irpp.org/magazines/may-2019/cant-canada-revenue-agency-catch-tax-cheats/>]

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Class 23 – Mar. 30: Redistribution

Just deserts [https://www.huffingtonpost.ca/entry/ndp-wealth-tax_ca_5dac4905e4bof34e3a773afd]

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Class 24 – Apr. 6: Building a Just Society

How is it working out for you? [<https://www.bac-lac.gc.ca/eng/discover/politics-government/building-just-society/Pages/building-just-society.aspx>]

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Adapted Standardized Information from York University

Please note that this is a seminar that depends on remote teaching and learning. There will be no in-person interactions or activities on campus. Moodle, Zoom and the university's email network will be used in this seminar.

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Students shall note that Zoom is hosted on servers in the U.S. This includes recordings done through Zoom. If you have privacy concerns about your data, provide only your first name or a nickname when you join a session. The system is configured in a way that all participants are automatically notified when a session is being recorded. In other words, a session cannot be recorded without you knowing about it. Please review the technology requirements and FAQs for Moodle [<https://lthelp.yorku.ca/95440-student-faq>].

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In this seminar, we strive to maintain academic integrity to the highest extent possible. Please familiarize yourself with the meaning of academic integrity by completing SPARK's Academic Integrity module at the beginning of the seminar [<https://spark.library.yorku.ca/academic-integrity-what-is-academic-integrity/>]. Breaches of academic integrity range from cheating to plagiarism (i.e., the improper crediting of another's work, the representation of another's ideas as your own, etc.). All instances of academic dishonesty in this seminar will be reported to the appropriate university authorities, and can be punishable according to the Senate Policy on Academic Honesty [<https://secretariat-policies.info.yorku.ca/policies/academic-honesty-senate-policy-on/>].

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All materials prepared for this seminar at York University are the intellectual property of Professor Thaddeus Hwong unless otherwise stated. This can include but is not limited to the following materials: spoken and written presentations; assignment handouts and instructions. Seminar materials should only be used by students enrolled in this seminar. As a student in this seminar, you may not publish, post on an Internet site, sell, or otherwise distribute any of this work without the instructor's express permission. Unauthorized or commercial use of these materials is strictly prohibited. Copying this material for distribution (e.g. uploading material to a commercial third-party website, or online sharing of seminar material with people outside of the seminar) may lead to a charge of misconduct under York's Code of Student Rights and Responsibilities [<https://oscr.students.yorku.ca/student-conduct>] and the Senate Policy on Academic Honesty. In addition, you may face legal consequences for any violation of copyright law.

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While all students are expected to satisfy the requirements of their program of study and to aspire to achieve excellence, the university recognizes that persons with disabilities may require reasonable accommodation to enable them to perform at their best. For more information about this policy, please refer to these guidelines and procedures: Academic Accommodation for Students with Disabilities [<https://secretariat-policies.info.yorku.ca/policies/academic-accommodation-for-students-with-disabilities-guidelines-procedures-and-definitions/>]. The university encourages students with disabilities to register with Student Accessibility Services [<https://accessibility.students.yorku.ca>] to discuss their accommodation needs as early as possible in the term. An Accessibility Counsellor will help you establish recommended academic accommodations, which will then need to be communicated to your seminar instructor(s) as necessary. Please let the seminar instructor(s) know as early as possible in the term if you anticipate requiring academic accommodation, so that your accommodation needs can be discussed and considered within the context of this seminar.