

**Law & Poverty (Law 266.5)**  
Spring 2009  
Tuesday & Wednesday, 1:55-3:10 pm  
Room 12, Boalt Hall

Berkeley Law  
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## **I. GENERAL DESCRIPTION**

This course will provide an introduction to the relationship between law and contemporary poverty in the United States, including the relevance of theory, doctrine and public policy to the significant inequality in income, assets, and access to affordable housing, health care and other basic services faced by tens of millions of U.S. residents.

The first third of the course will be devoted to understanding the nature and extent of domestic poverty. We will look to theory and data to consider the history, perceptions, causes and persistence of income and asset inequality. In light of the “War on Poverty” and the “New Property” movement, we will consider policy perspectives on poverty relief and the doctrinal framework under which poverty-related legal claims have been considered since the 1960s.

Armed with basic theory, doctrine and data, we will then explore modern government anti-poverty programs during the second third of the course, including income support, healthcare, food and childcare, housing, and legal aid. Student groups will select a topic of interest and help lead several class sessions, which may include contributions from local legal experts who work with clients navigating these programs on a daily basis.

During the final weeks of the semester we will consider various approaches to a renewed anti-poverty agenda with an emphasis on what role law, lawyers and legal institutions can play in such efforts.

## **II. MATERIALS**

Course materials will be assigned from legal, social science and popular sources. Although the assigned readings are generally sympathetic to the goal of reducing poverty and ameliorating its impact, they represent a wide range of political, economic and social perspectives about the means to achieve such goals. You are expected to read and discuss the materials critically – if anyone had a monopoly on easy answers to eradicating poverty, we would not be facing such a daunting challenge!

Please note that readings are assigned by week, though the class meets bi-weekly (Monday and Wednesday). You are expected to read everything for the first class each week; this will give us some flexibility to cover topics as the discussion progresses.

Course materials will be drawn primarily from the following three sources:

1. John Iceland, *Poverty in America: A Handbook* (University of California Press, 2006);
2. Janet M. Currie, *The Invisible Safety Net: Protecting the Nation's Poor Children and Families* (Princeton University Press, 2006); and
3. Weekly readings posted to the course webpage on *bSpace*.

As a survey course on a topic of this breadth and depth, we cannot even touch on – much less explore in sufficient detail – every important poverty-related issue. That said, I welcome suggestions about supplemental readings and topics, both in and out of class.

### **III. REQUIREMENTS & GRADING**

#### **A. Attendance and Participation – 20%**

You are expected to attend class and participate in discussions. Quality contributions will be rewarded, and unexcused poor attendance could result in a reduced grade or being dropped from the course. If for any reason you do not feel comfortable taking part in class discussions, please let me know what I can do to make the atmosphere more conducive to your participation.

You will also prepare and lead (with a group of 5-6 other students) a class on one or more anti-poverty programs during the middle of the semester. More detailed instructions will be provided, but this will offer you the opportunity to explore an area of interest in greater depth and to contribute to our collective learning.

#### **B. Community Participation and Reflection – 20%**

You are expected to participate in a visit to the East Bay Community Law Center's Self-Help Clinic, and will sign up for a date and time of your choice. You will receive an orientation and further instructions about the assignment in class on January 26<sup>th</sup>. Prior to spring break, you are required to submit a 3-5 page reflection paper describing your experience at CLASS in light of one or more of the course topics.

#### **C. Final Paper – 60%**

You must complete a 15-page doubled-spaced final paper for the course, due no later than May 12, 2009. You are encouraged to consider one or more forward-looking approaches to alleviating, reducing or eliminating domestic poverty that involves law, lawyers or legal institutions, while drawing on some aspect of theory, doctrine or public policy.

#### **D. Office Hours**

Friday, 10:15-12:15 (or by appointment) – please sign up in advance at my office (590 Simon) as I have periodic outside obligations.

I'm looking forward to a terrific semester.

## IV. SYLLABUS

<b>A. POVERTY IN THE UNITED STATES</b>
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**WEEK 1: Introduction & History** **1/12 & 1/14**

Iceland, Chapters 1 & 2, *Introduction & Early Views of Poverty in America* (2006), pp. 1-19.

U.S. Conference of Catholic Bishops, Campaign for Human Development, "Poverty Tour" (2007) (<http://www.usccb.org/cchd/povertyusa/tour.htm>).

Austin Sarat, "...*The Law is All Over:*" *Power, Resistance, and the Legal Consciousness of the Welfare Poor*, 2 Yale J. of L. & Hum. 343 (1990), pp. 343-349.

Joel Handler & Yeheskel Hasenfeld, *The Moral Construction of Poverty: Welfare Reform in America* (Sage, 1991), pp. 1-14.

**WEEK 2: Measurement & Characteristics** **1/19 (MLK Jr. Holiday) & 1/21**

Iceland, Chapters 3 & 4, *Methods of Measuring Poverty and Characteristics of the Poverty Population* (2006), pp. 20-69.

Amartya Sen, *Inequality Reexamined* (Oxford University Press, 1992), pp. 107-116.

U.S. Department of Health & Human Services, Office of the Secretary, *Annual Update of the HHS Poverty Guidelines*, Federal Register: January 23, 2008 (Volume 73, No. 15) (<http://aspe.hhs.gov/poverty/08fedreg.pdf>), pp. 3971-72.

U.S. Census Bureau, Current Population Reports, P60-235, *Income, Poverty, and Health Insurance Coverage in the United States: 2007* (August 2008) (<http://www.census.gov/prod/2008pubs/p60-235.pdf>), pp. 12-17.

California Budget Project, *2007 Incomes Declined, Poverty Increased: New Data Mark a Reversal of Progress Made in 2006* (August 2008) ([http://www.cbp.org/pdfs/2008/080826\\_pressrelease\\_censusdata.pdf](http://www.cbp.org/pdfs/2008/080826_pressrelease_censusdata.pdf)), pp. 1-5.

Robert Rector, *How Poor Are America's Poor? Examining the "Plague" of Poverty in America*, Heritage Foundation, August 27, 2007 (<http://www.heritage.org/Research/Welfare/bg2064es.cfm>), pp. 1-4.

*Bipartisan Calls for New Federal Poverty Measure*, The New York Times, September 2, 2008.

Center on Budget and Policy Priorities, *Recession Could Cause Large Increases in Poverty and Push Millions into Deep Poverty* (November 2008) (<http://www.cbpp.org/11-24-08pov.htm>), pp. 1-3.

**WEEK 3: Causes & Persistence** **1/26 (EBCLC Training) & 1/28**

Iceland, Chapters 5 & 6, *Causes of Poverty and Why Poverty Remains High, Revisited* (2006), pp. 70-117.

Henry Louis Gates, Jr., *Forty Acres and a Gap in Wealth*, The New York Times (Op-Ed, November 18, 2007).

Ange-Marie Hancock *The Politics of Disgust: The Public Identity of the Welfare Queen* (New York University Press, 2004), pp. 1-21.

**WEEK 4: The “War on Poverty” & Ensuing Policy Debates** **2/02 & 2/04**

Iceland, Chapter 7, *Poverty and Policy* (2006), pp. 117-141.

Peter Edelman, *Toward a Comprehensive Antipoverty Strategy: Getting Beyond the Silver Bullet*, 81 Geo. L.J. 1697 (1993), pp. 1710-1726.

Charles Murray, *Losing Ground: American Social Policy, 1950-1980* (Basic Books, 1984), pp. 196-204.

Lawrence Mead, *Beyond Entitlement: The Social Obligation of Citizenship* (The Free Press, 1986), pp. 1-17.

William Julius Wilson, *The Truly Disadvantaged: The Inner City, the Underclass and Public Policy* (University of Chicago Press, 1987), pp. 3-19.

**WEEK 5: “New Property” & the Limits of Doctrine** **2/09 & 2/11**

Charles A. Reich, *The New Property*, 73 Yale L.J. 733 (1964), pp. 733, 756, 760-764, 768-771, 778-779, 785-787.

*Goldberg v. Kelly*, 397 U.S. 254 (1970) (excerpts).

*Dandridge v. Williams*, 397 U.S. 471 (1970) (excerpts).

*Jefferson v. Hackney*, 406 U.S. Ct. 535 (1972) (excerpts).

*Wyman v. James*, 400 U.S. 309 (1971) (excerpts).

Joel Handler, ‘Constructing the Political Spectacle’: *The Interpretation of Entitlements, Legalization, and Obligations in Social Welfare History*, 56 Brooklyn L.Rev. 899 (1990), pp. 899-906.

Thomas Ross, *The Rhetoric of Poverty: Their Immorality, Our Helplessness*, 79 Geo. L.J. 1499 (1991), pp. 1499, 1513-1528.

<b>B. MODERN ANTI-POVERTY PROGRAMS</b>
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**WEEK 6: Intro to Modern Anti-Poverty Programs** **2/16 (Presidents’ Day) & 2/18**

*Readings TBA*

**WEEK 7: Income Support (TANF, EITC, SSI)** **2/23 & 2/25**

Currie, Chapter 1, *Welfare vs. ‘Making Work Pay’*, pp. 11-32.

U.S. Census Bureau, Current Population Reports, P60-235, *Income, Poverty, and Health Insurance Coverage in the United States: 2007* (August 2008)  
(<http://www.census.gov/prod/2008pubs/p60-235.pdf>), pp. 1-11.

California Budget Project, *Labor Day 2008: Little to Celebrate* (August 2008)  
([http://www.cbpp.org/pdfs/2008/0808\\_pp\\_LaborDay.pdf](http://www.cbpp.org/pdfs/2008/0808_pp_LaborDay.pdf)), pp. 1-8.

California Department of Social Services, *CalWORKs Program Percent of Population Receiving CalWORKs* (December 2008) (<http://www.cdss.ca.gov/research/res/pdf/caltrends/CWPopRecJan08Map.pdf>), pp. 1-3.

California Department of Social Services, *AFDC/CalWORKs Program Monthly Caseload and Unemployment Rates* (December 2008) (<http://www.cdss.ca.gov/research/res/pdf/caltrends/CWCaseloadUnemp.pdf>), pp. 1-2.

California Department of Social Services, *CalWORKs Program Applications Received* (December 2008) (<http://www.cdss.ca.gov/research/res/pdf/caltrends/CA237AppRecd.pdf>), pp. 1-2.

Center on Budget and Policy Priorities, *State Earned Income Tax Credits: 2008 Legislative Update* (October 2008) (<http://www.cbpp.org/6-6-08sfp.pdf>), pp. 1-7.

*Selected Cases TBA*

**WEEK 8: Healthcare (Medicaid, SCHIP) 3/02 & 3/04**

Currie, Ch. 2, *In Sickness and In Health*, pp. 33-60.

U.S. Census Bureau, Current Population Reports, P60-235, *Income, Poverty, and Health Insurance Coverage in the United States: 2007* (August 2008) (<http://www.census.gov/prod/2008pubs/p60-235.pdf>), pp. 19-26.

UCLA Health Policy Research Brief, *Nearly 6.4 Million Californians Lacked Health Insurance in 2007 – Recession Likely to Reverse Small Gains in Coverage* (December 2008) ([http://www.healthpolicy.ucla.edu/pubs/files/CAs\\_Lack\\_Insurance\\_PB\\_121508.pdf](http://www.healthpolicy.ucla.edu/pubs/files/CAs_Lack_Insurance_PB_121508.pdf)), pp. 1-5.

Children Now, *California Report Card 2009: Setting the Agenda for Children* (January 2009) (<http://publications.childrenow.org/assets/pdf/policy/rc09/ca-rc-2009.pdf>), pp. 1-18.

*Selected Cases TBA*

**WEEK 9: Food & Childcare (Food Stamps, WIC, School Nutrition, Head Start, Dependent Care Tax Credit) 3/09 & 3/11**

Currie, Chapters 3 & 5, *Feeding the Hungry & Who's Minding the Kids?*, pp. 61-89, 113-138.

U.S. Department of Agriculture, Economic Research Service, *Household Food Security in the United States, 2007* (November 2008) (<http://ers.usda.gov/Publications/ERR66/ERR66.pdf>), pp. iii-iv, 1-18, 28-37.

Center on Budget and Policy Priorities, *Food Stamp Benefits Falling Further Behind Rising Food Prices* (October 2008) (<http://www.cbpp.org/7-22-08fa.pdf>), pp. 1-6.

Children Now, *California Report Card 2009: Setting the Agenda for Children* (January 2009) (<http://publications.childrenow.org/assets/pdf/policy/rc09/ca-rc-2009.pdf>), pp. 19-29.

*Selected Cases TBA*

**WEEK 10: Housing (Public Housing, §8, Housing Tax Credit) 3/16 & 3/18**

Currie, Chapter 4, *Home Sweet Home?*, pp. 90-112.

Harvard Joint Center for Housing Studies, *The State of the Nation's Housing 2008* (June 2008) (<http://www.jchs.harvard.edu/publications/markets/son2008/son2008.pdf>), pp. 1-31.

National Low-Income Housing Coalition, *Out of Reach 2007-2008* (Introduction and California data only) (<http://www.nlihc.org/oor/oor2006/pdf/CA.pdf>), pp. 1-9, 32-35.

*Selected Cases TBA*

**SPRING BREAK: 3/23-3/27 (Reaction paper due on or before 3/20/09)**

**WEEK 11: Legal Services (OEO, LSC, IOLTA) 3/30 & 4/01**

Alan W. Houseman, Center for Law & Social Policy, *Civil Legal Aid in the United States: An Update for 2007* (August 2007) (<https://www.olaf.org/aboutolaf/fundinghistory/CLASP%20-%20History%20of%20Legal%20Aid.pdf>), pp. 1-30.

Jeanne Charn & Richard Zorza, *Civil Legal Assistance for All Americans* (2005) (<http://www.wisbar.org/AM/Template.cfm?Section=AccesstoJustice&Template=/CM/ContentDisplay.cfm&ContentID=54878>), pp. 1-17.

California Access to Justice Commission, *Action Plan for Justice: Summary Edition* (April 2007) ([http://calbar.ca.gov/calbar/pdfs/reports/2007\\_Summary\\_Action-Plan-Justice.pdf](http://calbar.ca.gov/calbar/pdfs/reports/2007_Summary_Action-Plan-Justice.pdf)), pp. iv-v, 1-12.

*Selected Cases TBA*

<b>C. A RENEWED ANTI-POVERTY AGENDA?</b>
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**WEEK 12: The "Public" Safety Net: What Role for Government? 4/06 & 4/08**

*Readings TBA*

**WEEK 13: The "Private" Market: The Promise of Joint Gain? 4/13 & 4/15**

*Readings TBA*

**WEEK 14: International: Human Rights & Lessons from the Global South 4/20 & 4/22**

*Readings TBA*

**Make Up: Ending Poverty as We Know It? 4/27 & 4/28**

*Readings TBA*

**\*Final paper due on or before 5/12/09\***