

TE WHARE WĀNANGA O TE ŪPOKO O TE IKA A MĀUI



**VICTORIA**  
UNIVERSITY OF WELLINGTON

**SCHOOL OF SOCIAL AND CULTURAL STUDIES**

*Te Kura Mahinga Tangata*

Sociology, Social Policy, Criminology

**CRIM 319**

**SOSC/SPOL 217**

**SOSC 306/SPOL 307**

*Special Topic: Law & Society*

# **Course Outline**

Trimester 2, 2007

**COURSE COORDINATOR: DR CHARLES SEDGWICK**

*Room 922, Murphy Building*

*Tel: (04) 463 5233, ext 8876*

*Email: [charles.sedgwick@vuw.ac.nz](mailto:charles.sedgwick@vuw.ac.nz)*

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**LECTURES : FRI 11-1PM : HM LT002**

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**CRIM 319**  
**SOSC/SPOL 217**  
**SOSC 306/SPOL 307**

*Special Topic: Law and Society*

**Course Coordinator:** Dr Charles Sedgwick  
Murphy Building  
Level 9, Room 922  
Tel: (04) 463 5233, ext 8876  
E-mail: [charles.sedgwick@vuw.ac.nz](mailto:charles.sedgwick@vuw.ac.nz)

**Course Lecturer:** Dr Charles Sedgwick

**Office Hours:** By appointment  
Administration is on Level 9, Murphy Building, Kelburn Parade and is generally open from 9.00am to 4.00pm.  
The School notice board is on Level 9, Murphy Building and all notices concerning this course, including information about tutorials, will be posted on this notice board.

**Lectures:** Friday 11am-1pm, HM LT002.  
**Commencing Friday 13<sup>th</sup> July.**

**Tutorials:** TBA

**Website:** The School's website is <http://www.vuw.ac.nz/sacs>

## **Course withdrawal procedures**

If you decide for any reason at any stage to withdraw from SOSC/SPOL 217, SOSC 306/SPOL 307, or CRIM 319 (or any other course), please see the Faculty of Humanities and Social Sciences for a Change of Course Form. Failure to do so may have consequences for enrolment, bursaries, allowances, loans, etc., i.e. you will get credited with a fail not a withdrawal on your record if you do not act promptly.

## **Course objectives**

The course will critically explore the theoretical discussion by sociologists, anthropologists and historians as they endeavour to explain the development and transformation of law (understood in its broadest sense) in historic and contemporary social contexts.

This will require discussion of law in the context of the emergence of the state, the transition from feudalism to capitalism, slavery, colonialism and contemporary society (Britain, United States and New Zealand).

## **Course format**

This course will expose students to social theory, aspects of history and a practical research exercise.

The two-hour lectures/seminars will be run on a weekly basis. Because it is intended that these will be used for both lecture and discussions, it is important to attend and contribute. They will also provide a forum to discuss the ongoing research project which runs for almost the entire duration of the course.

If meetings are missed it is recommended that alternative arrangements be made in discussion with the lecturer, if need be, to access material.

## **Required readings**

These may be purchased from the Student Notes Shop, Student Union Building. These are required readings and will form the basis of the lectures, the essays and the final exam.

While all **required reading** is in the above collection, it is also expected that students will read, listen to and view local and national newspapers, magazines, radio and television. You will be expected to cut and accumulate articles from print media. **Note:** Assessment 2.

## **Mandatory course requirements**

To complete the mandatory course requirements students must submit two written assignments and take the final exam.

## **Workload**

Attendance at lectures is not mandatory but is highly recommended. An average student should expect to spend a minimum of 15 hours a week at 200-level or 18 hours a week at 300-level, which includes class contact time, reading and note-taking, as well as collecting and analysing data as per Faculty recommendations.

## **Details of assessments**

Assessment for this course will be based on two internal pieces of work (an essay and research project) and a final exam. Please note that more in depth analysis is expected for students undertaking 300-level study.

- Essay (20%)
- Research project (40%)
- Final examination (40%)

### **Assignment 1**

### **Essay Topics**

*Due:* 4pm, Wednesday 8 August

*Weighting:* 20%.

*Length:* 2000 words.

#### *SOSC 217/ SPOL 217*

Contrast Lord Lloyd's (1968:11-25 and 1979:5-31) understanding of the relationship between law and society with other positions he discusses. Why does he conclude: "The hard realities of practical life have so far rendered laws and the machinery to enforce them absolutely indispensable to human society." (Lloyd, 1979:10)

#### *SOSC 306/SPOL 307/CRIM 319*

Compare Lord Lloyd's (1968: 11-25 and 1979:5-31) understanding of the relationship between law and society with that of Stanley Diamond (1974:255-280), noting particularly their respective positions on the origins and functions of law as well as its relationship to social change.

### **Assignment 2**

### **Research Project**

*Due:* 4pm, Wednesday 26 September

*Weighting:* 40%.

*Length:* 200-level: 2000 words, in addition to data/articles, which must be included.

300-level: 2500 words, in addition to data/articles, which must be included.

A practical exercise involving the extraction of articles (may include radio and television materials) on issues pertaining to law, excluding local court proceedings and crime reports, over the time of the course. These will then be categorised and analysed in terms of various theories that discuss/explain the law - society relationship.

**Purpose:**

To critically engage with the relationship between data and sociological theory in a practical research exercise which aims to specifically:

- examine the extent to which law penetrates aspects of the social formation - in this case mainly contemporary New Zealand (but international issues can also be included);
- understand the variety of ways in which the law-society relationships are expressed, and the context in which the discussion takes place; and
- begin to explore the relationship between law and the state, the economy, civil society and ideology using various theoretical positions discussed.

The key question: If we are to understand/explain the relationship between law (understood in its most general sense) and society, in any historic context, would we argue that we need a theory that has at its core the discussion of law or rather one that has as its focus the understanding of society?

**Task:**

In order to accomplish the above it will be necessary to collect articles from New Zealand or overseas newspapers and magazines over a period of weeks, all of which seem to reflect a relationship between law and society.

Following this it is necessary to pick out the assumptions and causal relations that seem to be implied or are explicit in the discussion/use of law and then try and make sense of these using the sociological perspectives we have discussed in the course.

Some examples of perspectives you might consider:

- law as an instrument of ruling class;
- law as a mediator between antagonistic classes or class fractions;
- law as the instrument of the bourgeois state for the creation of the general conditions of capitalist production;
- law as a means of simultaneous integration and repression;
- law as a means of legitimation.

While reading and analysing these articles you should note questions and data that have not been asked or presented and speculate on any overall tendencies that you think you have discovered regarding the relationship between law and society.

**Final report:**

The final report will include:

1. All articles categorised and underlined for the main points you want to draw out of them.
2. A report of 2000 words (200-level) or 2500 words (300-level), which will include:

- a) a discussion of how you developed your categories both original and revised;
- b) a discussion of how theoretical categories which you have used relate to/help explain specific areas in which the law has been or is intended to be used. It may well be that several variations of theory are needed in any one area to indicate the complexity of a situation;
- c) finally, provide reflection on the reporting in the articles read and whether you felt there was missing information. Specify what this information was and the implications of its omission.

### **Final Examination**

This will be a three-hour exam covering the material from lectures and readings. Weighting: 40%. The exam period is 19 October to 10 November

### **Handing in essay and other written assignments**

It is the policy of the School of Social and Cultural Studies that all written assignments must be placed in the assignment box located on level 9, outside the lift, by **4pm** on the due date, unless an extension has been sought and granted from the Course Coordinator prior to the deadline.

They **must not** be placed in individual staff pigeonholes, or under staff office doors, or handed to lecturers or tutors. This is to ensure that all work is properly recorded when submitted, and to avoid problems that have arisen in the past, when work has “gone missing”.

At 4 pm the assignment box will be emptied, work date-stamped and its receipt recorded, and then handed to the appropriate markers.

### **Assignment front cover sheet**

Please include a School assignment cover sheet when submitting your assignments. This cover sheet ensures the School has all the information it needs to accurately track your work. School assignment cover sheets can be found at the School’s Administration office, on the side of the Assignment box in the Murphy Building, Level 9, and a sample copy is at the back of this Course Outline.

### ***STUDENTS MUST KEEP A PHOTOCOPY OF EVERY WRITTEN ASSIGNMENT***

Unless students have followed this procedure, the School will not accept responsibility for pieces of written work claimed to have been handed in.

### **Late penalties**

Late submissions for student assignments in all Sociology and Social Policy undergraduate courses are subject to a penalty. The exact deduction will be calculated on the basis of one half mark per day late for each 10 marks, i.e. 1 mark will be deducted each day for an assignment worth 20% of the total course mark.

Note that assessment work will not be accepted for marking more than 7 days after the due date or 7 days after an approved extension date. Work must still, however, be submitted to meet the mandatory course requirements.

## **Extensions**

If you are given an extension, a new submission date will be identified and you will have to submit the work in the same manner as previously, by 4 p.m. on that day. Failure to do so will result in penalties being applied in the same manner as those for the original submission date.

## **General university policies and statutes**

Students should familiarise themselves with the University's policies and statutes, particularly the Assessment Statute, the Personal Courses of Study Statute, the Statute on Student Conduct and any statutes relating to the particular qualifications being studied; see the Victoria University Calendar available in hard copy or under 'About Victoria' on the VUW home page at [www.vuw.ac.nz](http://www.vuw.ac.nz).

### **Student and staff conduct**

The Statute on Student Conduct together with the Policy on Staff Conduct ensure that members of the University community are able to work, learn, study and participate in the academic and social aspects of the University's life in an atmosphere of safety and respect. The Statute on Student Conduct contains information on what conduct is prohibited and what steps are to be taken if there is a complaint. For information about complaint procedures under the Statute on Student Conduct, contact the Facilitator and Disputes Advisor or refer to the statute on the VUW policy website at: [www.vuw.ac.nz/policy/studentconduct](http://www.vuw.ac.nz/policy/studentconduct). The Policy on Staff Conduct can be found on the VUW website at: [www.vuw.ac.nz/policy/staffconduct](http://www.vuw.ac.nz/policy/staffconduct)

### **Academic grievances**

If you have any academic problems with your course you should talk to the tutor or lecturer concerned; class representatives may be able to help you in this. If you are not satisfied with the result of that meeting, see the Head of School or the relevant Associate Dean; VUWSA Education Coordinators are available to assist in this process. If, after trying the above channels, you are still unsatisfied, formal grievance procedures can be invoked. These are set out in the Academic Grievance Policy which is published on the VUW website at: [www.vuw.ac.nz/policy/academicgrievances](http://www.vuw.ac.nz/policy/academicgrievances)

### **Academic integrity and plagiarism**

Academic integrity is about honesty – put simply it means *no cheating*. All members of the University community are responsible for upholding academic integrity, which means staff and students are expected to behave honestly, fairly and with respect for others at all times.

Plagiarism is a form of cheating which undermines academic integrity. The University defines plagiarism as follows:

*The presentation of the work of another person or other persons as if it were one's own, whether intended or not. This includes published or unpublished work, material on the Internet and the work of other students or staff.*

It is still plagiarism even if you re-structure the material or present it in your own style or words.

*Note:* It is however, perfectly acceptable to include the work of others as long as that is acknowledged by appropriate referencing.

Plagiarism is prohibited at Victoria and is not worth the risk. Any enrolled student found guilty of plagiarism will be subject to disciplinary procedures under the Statute on Student Conduct and may be penalized severely. Consequences of being found guilty of plagiarism can include:

- an oral or written warning,
- cancellation of your mark for an assessment or a fail grade for the course,
- suspension from the course or the University.

Find out more about plagiarism, and how to avoid it, on the University's website: [www.vuw.ac.nz/home/studying/plagiarism.html](http://www.vuw.ac.nz/home/studying/plagiarism.html)

### **Students with Impairments** (see Appendix 3 of the Assessment Handbook)

The University has a policy of reasonable accommodation of the needs of students with disabilities. The policy aims to give students with disabilities the same opportunity as other students to demonstrate their abilities. If you have a disability, impairment or chronic medical condition (temporary, permanent or recurring) that may impact on your ability to participate, learn and/or achieve in lectures and tutorials or in meeting the course requirements, please contact the course coordinator as early in the course as possible. Alternatively, you may wish to approach a Student Adviser from Disability Support Services (DSS) to discuss your individual needs and the available options and support on a confidential basis. DSS are located on Level 1, Robert Stout Building: telephone: 463-6070, email: [disability@vuw.ac.nz](mailto:disability@vuw.ac.nz)

The name of your School's Disability Liaison Person is Dr Rhonda Shaw.

### **Student Support**

Staff at Victoria want students to have positive learning experiences at the University. Each faculty has a designated staff member who can either help you directly if your academic progress is causing you concern, or quickly put you in contact with someone who can. In the Faculty of Humanities and Social Sciences the support contacts are *Dr Allison Kirkman, Murphy Building, room 407* and *Dr Stuart Brock, Murphy Building, room 312*. Assistance for specific groups is also available from the Kaiwawao Māori, Manaaki Pihipihinga or Victoria International.

### **Manaaki Pihipihinga Programme**

This programme offers:

- Academic mentoring for all Māori & Pacific students at all levels of undergraduate study for the faculties of Commerce & Administration and Humanities & Social Sciences. Contact [Manaaki-Pihipihinga-Programme@vuw.ac.nz](mailto:Manaaki-Pihipihinga-Programme@vuw.ac.nz) or phone 463 6015



to register for Humanities & Social Science mentoring and 463 8977 to register for mentoring for Commerce and Administration courses

- Postgraduate support network for the above faculties, which links students into all of the post grad activities and workshops on campus and networking opportunities
- Pacific Support Coordinator who can assist Pacific students with transitional issues, disseminate useful information and provide any assistance needed to help students achieve. Contact; [Pacific-Support-Coord@vuw.ac.nz](mailto:Pacific-Support-Coord@vuw.ac.nz) or phone 463 5842.

Manaaki Pihipihinga is located at: 14 Kelburn Parade, back court yard, Room 109 D (for Humanities mentoring & some first year Commerce mentoring) or Room 210 level 2 west wing railway station Pipitea (commerce mentoring space). Māori Studies mentoring is done at the marae.

### ***Student Services***

In addition, the Student Services Group (email: [student-services@vuw.ac.nz](mailto:student-services@vuw.ac.nz)) is available to provide a variety of support and services. Find out more at: [www.vuw.ac.nz/st\\_services/](http://www.vuw.ac.nz/st_services/)

VUWSA employs Education Coordinators who deal with academic problems and provide support, advice and advocacy services, as well as organising class representatives and faculty delegates. The Education Office (tel. 463-6983 or 463-6984, email at [education@vuwsa.org.nz](mailto:education@vuwsa.org.nz)) is located on the ground floor, Student Union Building.

### **Other contact information**

Head of School:	Assoc. Professor Jenny Neale, MY1013 Tel: 463 5827 E-m: <a href="mailto:Jenny.Neale@vuw.ac.nz">Jenny.Neale@vuw.ac.nz</a>
International Student Liaison:	Dr Hal Levine MY1023 Tel: 463 6132 E-m: <a href="mailto:Hal.Levine@vuw.ac.nz">Hal.Levine@vuw.ac.nz</a>
Maori and Pacific Student Liaison	Dr David Person, MY1020 Tel: 463 6748 E-m: <a href="mailto:David.Pearson@vuw.ac.nz">David.Pearson@vuw.ac.nz</a>
Students with Disabilities Liaison:	Dr Rhonda Shaw, MY1022 Tel: 463 6134 E-m: <a href="mailto:Rhonda.Shaw@vuw.ac.nz">Rhonda.Shaw@vuw.ac.nz</a>
School Manager:	Carol Hogan, MY918 Tel: 463 6546 E-m: <a href="mailto:Carol.Hogan@vuw.ac.nz">Carol.Hogan@vuw.ac.nz</a>
School Administrators:	Monica Lichti, Adam Meers, Amy Stratton MY921, Tel: 463 5317, 463 5258, 463 5677 E-m: <a href="mailto:sacs@vuw.ac.nz">sacs@vuw.ac.nz</a>

## Course Outline

13 July 2007

### Introduction to the Course

1. Combining social history and theory with research.
2. Three types of assessment, research project and an exam.

*“Punishment is simply a means for defending society against any violation of the conditions for its existence, regardless of their context. What sort of society is it, that has no better means of defence than a penal judge? ... If these crimes are seen in great number and they appear with such frequency and regularity that they appear to be a natural phenomena ... is it not necessary, instead of hailing judges who remove part of the criminals simply to make way for new ones, to think seriously about altering the system that produces such crimes.”*  
(K Marx, New York Daily Tribune, 18 February 1853)

### Types of Law and Common Understandings

1. What do we mean when we talk about the Law?

**Reading:** Johnson and Wallace (2000)

2. Is law necessary and why do we need and obey law? The social functions of law and the relationship to morality. A view from a law Lord:

*“...the operation of laws provides the sort of social order without which man’s capacities, both as an individual, and as a member of society, will be stunted or frustrated at birth.”* (Lloyd, 1979, p.10)

**Reading:** Lord Lloyd (1964 and 1979)

20 July 2007

### The Evolution of Law and Social Control

1. Socially disruptive behaviour (a wrong or crime) and social control in pre-industrial society.

**Source:** taken from Hoebel (1968) (not in Student Notes)

### The Emergence of the Proto-State

2. Census, tax and conscription – social control and law under the proto-state and colonialism.

*“Law and order is the historical illusion; law versus order is the historical reality”*  
(Diamond, 1974, p.279)

**Reading:** Diamond (1974).

**27 July 2007**

### **The Construction of Crime, Law and Social Control: from Feudalism to Capitalism**

1. Social control under feudalism.

**Source:** taken from Tigar and Levy ( 1977)  
(not in Student Notes)

2. The long transition: from free market law and order to centralised social control: three interpretations/explanations:
  - (a) from free market law to political rationality;
  - (b) use of law as terror or justice mercy and majesty;
  - (c) law used to formalise independence and a new dependence.

**Readings:** Spitzer and Scull (1982)  
Hay (1975)  
Marx *in* (Cain and Hunt 1979)

**3 August 2007**

### **Theoretical Positions on Social Order and Social Control**

1. Economic relations.

Marx (its an economic problem not a legal problem).

**Reading:** Cain and Hunt (1979)

2. Social relations.

Durkheim (the uses of crime and law (social facts) as indicators of social well being and social pathology).

**Reading:** Lukes and Scull (1983)

### **Assignment 1 due: 4pm, Wednesday 8 August**

**10 August 2007**

### **Rationality and Power**

1. Weber (rational law: the absolute necessity, but relatively autonomous).

*“Max Weber must be given the credit for demonstrating this point [the capitalist state holds a monopoly of legitimate physical violence] and for demonstrating that the legitimacy of its concentration of organised force is a “rational-legal” legitimacy based on law” (Poulantzas in Beirne and Quinney, 1982, p.187).*

**Reading:** Hunt (1978)

**17 August 2007**

**Contemporary Shifts in Theory**

1. The Rule of Law is necessary - the balance sheet.

**Reading:** Thompson (1975)

2. Class, state, law and crime:

(a) A radical shift: instrumentalism, formalism or relative autonomy.

**Readings:** Quinney (1980)

Balbus (1978)

(b) Law as intended and unintended consequences.

**Source:** Chambliss (1975 & 1979) (not in Student Notes)

***Mid Trimester Break: 20 August – 2 September***

**7 September 2007**

**Readjusting our Theory of the State**

*“Law is always present from the beginning of the social order: it does not arrive post festum to put order into a pre-existing state of nature. For as the codification of both prohibitions and positive injunctions, law is a constitutive element of the politico-social field.” (Poulantzas in Beirne and Quinney, 1982, p.189)*

**Readings:** Poulantzas (1982)  
Mandel (1980)

**14 September 2007**

**Social Control and Regulation in Troubled Times I: when the Illegal becomes Legal or Vice Versa**

1. American slavery: when must a commodity have rights; social control of forced labour and brutal masters

**Readings:** Genovese (1982)

Novak (1976) ‘Slaveocracy in Colonial America’ and  
‘Rise and Fall of the Cotton Kingdom’

2. From the colonial experience to self determination: the Maori experience.

*“We are one people, of differing religious beliefs, cultural heritages and racial backgrounds. We are governed by one law. Every civilised society has rules by which it lives and it makes those rules of necessity so that the society may survive; without those rules the law of the jungle would operate” (R. v Dalton, unpublished, Auckland Magistrates Court, June 1979 per Blackwood S. M.)*

**Reading:** Kelsey (1984 & 1990)

**21 September 2007**

### **Social Control and Regulation in Troubled Times II**

*“...law has its origins in the pathology of social relations and functions only when there are frequent disturbances of the social equilibrium”. (Seagle, W., 1946 The History of Law, New York, Tudor, p.35)*

Manipulating women: from chattel and criminal to citizen?

**Reading:** Smart, (1982 & 1992)

### ***Assignment 2 due: 4pm, Wednesday 26 September***

**28 September 2007**

### **From Liberal Reform to the Fiscal Crisis of the State**

1. From ‘Policing the Crisis’ to ‘Reformism and the Legislation of Consent’; liberal reform or state regulation in British society?

**Reading:** Hall (1980)

2. A legal revolution: state restructuring in New Zealand, restructuring legitimate opposition.

**Source:** Dannin (1997) (not in Student Notes)

**5 October 2007**

### **Abnormal or Normal Capitalism**

White collar crime – the battle against corporate fraud and law violation or why we have a ‘Serious Fraud Office’.

**Readings:** Bakan (2004)  
Glasbeek (2002)

**12 October 2007**

### **Surveillance Laws: Public or Private Policing**

*“From the study of proto-states we also learn that the citizen must be constantly alert to laws which seek to curb his rights in the name of protection or security” (Diamond, 1974, p. 278).*

**Reading:** Lyon (2003)

**EXAMINATION – date to be announced**

**Office use only**

Date Received:

(Date Stamp)

# School of Social and Cultural Studies

Te Kura Mahinga Tangata

ANTHROPOLOGY

CRIMINOLOGY

SOCIOLOGY & SOCIAL POLICY

SOCIAL SCIENCE RESEARCH

## Assignment Cover Sheet

*(please write legibly)*

Full Name: \_\_\_\_\_  
*(Last name)* *(First name)*

Student ID: \_\_\_\_\_ Course (eg ANTH101): \_\_\_\_\_

Tutorial Day: \_\_\_\_\_ Tutorial Time: \_\_\_\_\_

Tutor (if applicable): \_\_\_\_\_

Assignment Due Date: \_\_\_\_\_

### CERTIFICATION OF AUTHENTICITY

*I certify that this paper submitted for assessment is the result of my own work, except where otherwise acknowledged.*

Signed: \_\_\_\_\_ Date: \_\_\_\_\_