This course is about problems in the design and maintenance of a democratic “affirmative” (aka “welfare”) state that satisfies popular interest in both efficacy and democratic legitimacy, particularly in the latter’s requirement of demonstrated fidelity to the rule of law. We take the activities of this kind of state, which is characteristic of all modern capitalist democracies, to include not only income maintenance and social insurance programs but any public policies or programs that, in alleged pursuit of improved living standards and egalitarian ends, supplement or replace unregulated markets, procedural rights, and representative democracy — for example, in environmental protection, industrial policy, and the provision of basic public goods in education, security, energy, transportation, and communication. We will examine the modern affirmative state’s origin, evolution, current problems in satisfying expectations of it, and a variety of strategies to address those problems.

By the end of this course, students should be able to articulate and defend a view, informed by comparative experience, of the democratic affirmative state’s: (1) origins and politics, (2) challenge to legal order, (3) crisis of operation and legitimacy, and (4) most promising strategies of renewal.

Students are expected to attend all class sessions, complete all assigned readings for each class in advance of its attendance, and provide, in advance of class, emailed to Michelle Bright (above) no later than 7 AM the day of the class, a half-page of questions or comments about anything in those readings they don’t understand, object to, or otherwise would like see more discussion of. Readings are up at https://ay16-17.moodle.wisc.edu/prod/course/view.php?id=191 and average ~150 pages per class. Depending on class discussion, we may reduce or add to readings. Grades will be based on pre- and in-person contribution to class (30 percent) and performance on a 24-hour, open-book, take-home exam (70 percent). The last will available for pickup during the Law School Final Exam period, which this year runs December 10-23, 2016. A pass/fail option is also available for this course; the deadline for declaring interest in taking it is December 8.
SCHEDULE OF CLASS SESSION TOPICS AND READINGS

1. INTRODUCTION TO CLASS & THE CURRENT MOMENT (SEPTEMBER 12)


2. CAPITAL, LABOR, AND INSTITUTIONALIZED ACCORDS: 1 (SEPTEMBER 19)


3. CAPITAL, LABOR, AND INSTITUTIONALIZED ACCORDS: 2 (SEPTEMBER 26)


4. WELFARE STATE ORIGINS & EVOLUTION IN THE U.S. (OCTOBER 3)


5. HOW THE WELFARE STATE UPSET THE “RULE OF LAW” (OCTOBER 10)

6. HOW CHANGES IN POLITICAL ECONOMY UPSET THE WELFARE STATE ... (OCTOBER 17)


7. ... AND GENERATED NEW POSSIBILITIES (OCTOBER 24)

- Dani Rodrik, “The inescapable trilemma of the world economy” (June 22, 2007) & “More on the political trilemma of the global economy” (March 11, 2016)

8. ... ALONG WITH LOST ILLUSIONS (OCTOBER 31)


9. NEW DEALS 1: EXPANDED RIGHTS & PROGRESSIVE FEDERALISM (NOVEMBER 7)

10. NEW DEALS 2: PUBLIC-INTEREST MARKETS, IMPROVED MANAGEMENT, GUIDED DISCRETION, Civil Capacity (NOVEMBER 14)


11. NEW DEALS 3: TRANSPARENCY & NUDGES (NOVEMBER 21)


12. NEW DEALS 4: EXPERIMENTALISM & PUBLIC ORDER (NOVEMBER 28)


13. REVIEW: ALL QUESTIONS, NO WORRIES! (DECEMBER 5)