Anthropology of Law

Anthropology 256
U.C. Riverside
Fall 2012
Watkins 1347
8:30 AM-11:30 AM

Course Overview

This course is a graduate-level seminar on anthropology and law. The course is oriented around several overarching and overlapping sets of questions. The first set concerns the emergence and transformation of legal anthropology in relation to the larger history of the discipline. The second concerns the relations between different legal and normative systems, including such topics as the relation of customary law to colonial and postcolonial legal orders, and universalist human rights. The third concerns the degrees to which law is both embedded in—and relatively autonomous from—culture, society, and processes of historical change. The fourth concerns the question of how to study law anthropologically: readings for the course will include a number of classic texts in anthropology and social and legal theory, as well as contemporary ethnography, history and theory; these reflect a range of approaches, from archival studies of legal decisions and cases to ethnographies of courtroom proceedings. Finally we will consider the claim that politics are increasingly being conducted through legal means in the neoliberal era, examining the use of the law by a range of historically marginalized actors.

Requirements

This class will be run as a graduate-level reading-intensive research seminar. Preparation for class discussion by careful reading of the week’s readings is required. This seminar relies upon the participants’ capacity to participate in a fruitful discussion in the seminar meeting. This means that each student should be familiar with the central arguments of the required readings, and be able to develop thoughts on the connections/disconnections in the larger body of readings for the week and across the term.

Additionally, each student will be expected to:

1) Prepare a one page critical commentary on the week’s readings to be circulated electronically via iLearn by 1 PM on the Tuesday before each class. In iLearn, click on Weekly Commentaries > Week # > Create Blog Entry. These are meant to jump-start discussion, to flag critical issues and concerns, and to highlight any crosscutting themes or connections that you may want to bring in.

2) Co-lead/co-chair at least one class discussion. (The exact number will depend on the number of students in the class). This involves three things: 1) using other materials to locate the key authors and arguments for the week in one or more debates or to show something of their intellectual genealogy; 2) a short presentation of the key arguments made in the readings; and 3)
leading the class discussion on the readings. Again, the presentation should be **no more than ten minutes**.

3) **Write.** There are two options for the writing component of this course. I have no preference for either choice; I expect you to choose the option that is more useful to you at the current stage of your graduate career. For both options, you will submit draft papers, receive comments, and rewrite for the final version of the paper.

Option one: Two papers of 9 to 12 pages, in which you develop your thoughts on a theme, topic or debate in a well-crafted and concise analysis that relates readings to each other within a given week or across sessions. You may submit the papers at any point during the term; however, you should submit the first one by 5 PM on Monday of week six (November 5), and the last by 5 PM on Monday of week ten (December 3). Final versions will be due two weeks after the original submission, no later than 10 AM Tuesday December 11.

Option two: submit a paper or research proposal of 18-25 pages, with a first draft due by 5 PM Monday November 26. Papers or proposals should use readings from the class (probably in theoretical, contextual or comparative sections) to engage with your dissertation topic or a closely-related area, and should not include material submitted as papers or proposals for other classes. The final version will be due 10 AM Tuesday December 11.

**Auditors**

Auditors are welcome in this class on two conditions: they need to come to most (preferably all) of the classes and they should be prepared to do all the readings and fulfill qualification (i) above, i.e. prepare a weekly commentary. Auditors can add a great deal to the discussion in the class but only if they prepare in the same way as students taking the class for credit.

**Grading**

- Participation (including commentaries and discussion leading): 50 points  
  (Attendance is required, and an unexcused absence will result in the loss of 5 points per absence).
- Paper(s) : 50 points

**Required Texts** (all ordered at UCR bookstore)

- Benton, L., *A Search for Sovereignty: Law and Geography in European Empires, 1400-1900*
- Darian-Smith, E., *Religion, race, rights: landmarks in the history of modern Anglo-American law*
- Donovan, J., *Legal Anthropology*
- Malinowski, B., *Crime and Custom in Savage Society*
- Merry, S. E., *Colonizing Hawai'i: The Cultural Power of Law*
- Moore, S. F. (ed). *Law and anthropology: a reader*
- Ng, Kwai Hang, *The Common Law in Two Voices: Language, Law, and the Postcolonial Dilemma in Hong Kong*

We will also read most of Julia Eckert et al., eds., *Law Against the State: Ethnographic Forays into Law's Transformation*. This text is available as an eBook from UCR Rivera Library, but
has not been ordered at the bookstore. Amazon lists the Kindle edition for $50+ and the hardcover for $80+.

Class Schedule

Week 1 - October 3: Foundations of Legal Anthropology

Required Reading
Donovan Intro, ch. 1-4
Moore Part I (63 pp.)
EP Thompson, Whigs and Hunters - Introduction and “Consequences and Conclusions” parts iii and iv (iLearn)
Malinowski, B., Crime and Custom in Savage Society (entire)

Additional Reading
Maine, H., Ancient Law (free eBook on Google Books)
Pospisil, L. J.
1974 Anthropology of law: a comparative theory. New York: Harper & Row. ch. 5: “Change of Legal Systems” [includes a much more thorough treatment of law in the works of Montesquieu, Maine, Marx and Durkheim than either Moore or Donovan’s text].
Spitzer, S.
Cain, M.
Kennedy, D.
Kennedy, D.
1991 The Stakes of Law, or Hale and Foucault. Legal Studies Forum 15:327.
Conley, J. M. and O'Barr, W. M.

Week 2 - October 10: Comparative Legal Anthropology

Required Reading
Moore, part II (except ch. 8 and 10)
Donovan, part III, ch 13
Gluckman, M., The judicial process among the Barotse of Northern Rhodesia, pp. 1-64, 80-144, 159-160, ch. 6
Starr, J. and Yngvesson, B.
Galanter, M.
Additional Reading
Colson, E.
Comaroff, J. and Roberts, S.
Nader, L. and Todd, H., eds.
Strathern, M.
Bohannan, P.
Songer, D. R., Sheehan, R. S., and Haire, S. B.

Week 3 - October 17: History and Ethnography of Anglo-American Law

Required Reading
Darian-Smith, E., *Religion, Race, Rights: Landmarks in the History of Modern Anglo-American Law*
Donovan ch 12
Conley, J. M. and O’Barr, W. M.
Lazarus-Black, M.

Additional Reading
Fitzpatrick, P.

Week 4 - October 24: Law, Space and Sovereignty

Required Reading
Benton, *A Search for Sovereignty*
Donovan ch 15
Moore ch 17 (Clifford, “Identity in Mashpee”) and 18 (Darian-Smith, “Locating a Reinvigorated Kentish Identity”), ch 27 (Nader, “Civilization and Its Discontents”)

Additional Reading
Ong, A.
Ong, A.
Guillet, D.  

von Benda-Beckmann, F.  

**Week 5 - October 31: Law, Colonialism and Legal Change**

**Required Reading**

Merry, S. E., *Colonizing Hawai‘i: The Cultural Power of Law*
Chanock, M.  

Comaroff, J. and Comaroff, J.  

**Additional Reading**

Pospisil, L. *Anthropology of Law: A Comparative Theory* ch. 6: “Change of Laws”
Chanock, M.  

Moore, S. F.  

Cheater, A. P.  

Costa, A.  

Alden Wily, L.  

**Week 6 - November 7: Law and Language**

**Required Reading**

Bourdieu, P.  


Ng, Kwai Hang, *The Common Law in Two Voices: Language, Law, and the Postcolonial Dilemma in Hong Kong*
**Additional Reading**

Mertz, E.


Conley, J. M. and O'Barr, W. M.


Conley, J. M. and O'barr, W. M.


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**Week 7: The Making of Law**

This week will need to be rescheduled to accommodate the AAA meetings in San Francisco.

**Required Reading**

Rosen, *Law as Culture*, ch. 2: “Creating Facts” (iLearn)

Moore ch. 24 (Gilboy, “Deciding Who Gets In”)

Latour, B. *Science in Action: How to Follow Scientists and Engineers through Society*, introduction (iLearn - required if you haven’t read it before)

Latour, B. *The Making of Law*

**Additional Reading**

Faulkner, A., Lange, B., and Lawless, C.


Jasanoff, S.


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**Week 8 - November 21: Law, Land and Property**

**Required Reading**

Moore Part III A (entire)

Bohannan, P.


Nadasdy, P.


Tsing, A.


Riles, A.

**Additional Reading**

Burton, L.


Coombe, R. J.


von Benda-Beckmann, K.


Cheater, A. P.


Riles, A.


Abramson, A. and Theodossopoulos, D.


Blomley, N.


Coombe, R. J.


**Week 9 - November 28: Human Rights**

**Required Reading**

Moore ch. 20 (Wilson, “Human Rights and Nation Building”) and 21 (Merry, “Rights, Religion and Community”)

Levitt, P. and Merry, S.

2009 Vernacularization on the ground: Local uses of global women's rights in Peru, China, India and the United States. *Global Networks* 9(4):441--461. (iLearn)


**Additional Reading**

Merry, S. E.


Clarke, K. M.

Week 10 - December 5: Legalism from Below and Above

Required Readings
Eckert, J.

Comaroff, J. L. and Comaroff, J.

Idrus, R.

from Julia Eckert et al., eds., *Law Against the State: Ethnographic Forays into Law's Transformation*: Eckert et al., “Introduction: law’s travels and transformations”
Kirsch, “Juridification of indigenous politics”
Donahoe, “Naming, claiming, proving?”
Zenker, “The juridification of political protest”
Baviskar, “Public interest and private compromises”
Baxi, “Epilogue”

Additional Readings
von Benda-Beckmann, F., von Benda-Beckmann, K., and Eckert, J.

Scheingold, S. A.

McCann, M.

Blichner, L. C. and Molander, A.

Duschinski, H. and Hoffman, B.