

Fall 2010
Anthropology 90838
Topics: Law, Culture & Society
Thursday 4:00p-06:30p
CSS 135

“The law is one big anthropological document.”

--Oliver Wendell Holmes, 1920.
Associate Justice, United States Supreme Court.

The seminar provides student with a thorough exploration of the central debates and themes in field of legal anthropology since the turn of the century. The seminar focuses on the relationship between culture and law. It will consider the different ways humans construct and use law: for purposes of disputing, as a mechanism for centralizing power, as an idiom of social relations, and as an expression of ideology. It will explore anthropological theories of the nature of law and disputes, and it will examine related legal structures in non-western societies and the particular characteristics of the American legal structure. Theoretical perspectives will include the thought of Weber, Gramsci, Foucault and Bourdieu. Anthropological and legal scholars will include Nader, Merry, Mattei, and Maurer.

Class Requirements

The course will be conducted in both lecture and seminar mode so your attendance, preparation and active participation are crucial. I expect timely class attendance and will take notice of your presence and absence. If you miss more than two class sessions for any reason, your grade may be lowered. You will be evaluated on the basis of your preparation for and active participation in class. Students will be asked to lead discussions of the readings from time to time (about 20%). Students are evaluated based on reflection papers on the readings and class participation (25%) and a final paper (75%).

Required Texts

Patricia Ewick and Susan Silbey. *The Common Place of Law*
Laura Nader. *The Life of the Law*
Carol J. Greenhouse. *Praying for Justice*
June Starr and Jane Collier. *History and Power in the Study of Law*
Kairys, David. *The Politics of Law: A Progressive Critique*
Harr, Jonathan. *A Civil Action*
Kairys, David. *The Politics of Law: A Progressive Critique*
Course reader (“CR”)

Part I: Foundations

Week One: Introduction to Anthropology of Law

Assigned Readings:

Nader, Laura. *The Life of the Law*, Introduction and (pp. 169-211)

Harr, Jonathan. *A Civil Action* (entire book)

Patricia Ewick and Susan Silbey. *The Common Place of Law* (Lightly read Intro and Chapter 1; Read Chapter 2 with particular attention to page 44, compare with Nader's user theory of law)

Week Two: Introduction Continued

Assigned Readings:

Same as Week One

Week Three: American Legal Field

Assigned Readings:

"Law School is Training for Hierarchy," Duncan Kennedy (CR)

Handouts for the Professor—student ethnographies on law school experience

Suggested: Pierre Bourdieu's "The Force of Law," Hastings Law Review (CR)

Week Four: What is a good ethnography of law?

Assigned Readings:

Nader, Laura. *The Life of the Law* (pp. 18-71)

Carol J. Greenhouse. *Praying for Justice* (entire book)

Week Five: Comparative Approaches to Notions of "Law"

Assigned Readings:

Textbook section: "What is Law" (CR)

Cohen, Felix S. "Transcendental Nonsense and the Functional Approach" (CR)

Patricia Ewick and Susan Silbey. *The Common Place of Law*, (Auden Poem)

Carol J. Greenhouse. *Praying for Justice* (review)

Malinowski, Bronislaw. Intro of *Crime and Custom in Savage Society* (CR)

Week Six: Law *in* Culture and Society

Assigned Readings:

Nader, Laura. Selections from *Law in Culture and Society* (Gulliver, Nader)
Seber, David. "Resolution or Rhetoric" (CR)
Hammoudi, Abdellah. "Substance and Relation: Water Rights and Water Distribution in the Dra Valley." (CR)
Leveau, Remy. "Property and Control of Property Rights: Their Effects on Social Structure in Morocco." (CR)

Week Seven: Law *in* Culture and Society Continued

Assigned Readings:

Galanter, Marc. "The Aborted Restoration of "Indigenous Law in India."
Patricia Ewick and Susan Silbey. *The Common Place of Law*, (reread Chapter 2)

Week : Law as Process

Assigned Readings:

Nader, Laura, and Henry F. Todd. Introduction to *The Disputing Process-Law in Ten Societies*. (CR)
Nader, Laura. *Life of the Law* (pp. 72-116)
Patricia Ewick and Susan Silbey. *The Common Place of Law*, (pp. 57-108)

Week Six: Law as Process Continued

Assigned Readings:

Nader, Laura, and Henry F. Todd. Introduction to *The Disputing Process-Law in Ten Societies*. (CR)
Nader, Laura. *Life of the Law* (pp. 117-212)
Patricia Ewick and Susan Silbey. *The Common Place of Law*, (pp. 108-180)

Part II: Law and Power

Week Seven: Law and Power

Assigned Readings:

E.P. Thompson. "Whigs and Hunter" (CR)
Nader, Laura. "Crime as a Category (CR)

Week Eight: Law and Power Continued

Starr, June, and Jane F. Collier. Selections from *History and Power in the Study of Law: New Directions in Legal Anthropology*.

Merry, Sally Engel. "Resistance and the Cultural Power of Law" (CR)

Week Nine: Theoretical Underpinnings of Law and Power found in the thought of Antonio Gramsci, Michel Foucault and Pierre Bourdieu.

Assigned Readings:

Bourdieu, Pierre. "The Force of Law" (CR)

Michel Foucault. Selections from the *Essential Foucault* (Handout)

Hoare, Quintin, and Geoffrey Nowell Smith. Selections from *Selection from the Prison Notebooks of Antonio Gramsci* (Handout)

Cain, Maureen. "Gramsci, The State and the Place of Law" (Handout)

Week Ten: The Politics of Law- Legal Scholars on Law and Power

Assigned Readings:

Kairys, David. *The Politics of Law: A Progressive Critique* (Parts II & III)

Part III: Expanding the Study of Law and Power

Week Eleven: Law and the Modern State

Assigned Readings:

Nader, Laura. *The Life of the Law: Anthropological Projects* (pp. 213-230)

Shihada, M., "Internal Violence: State's Role and Society's Response" (CR)

Week Twelve: Law, Corporate Globalization and the State, Law and War

Assigned Readings:

Wilson, Richard. "Reconciliation and Revenge in Post-Apartheid South Africa: Rethinking Legal Pluralism and Human Rights" (CR)

Leach, Edmond R. *Custom, Law and Terrorist Violence*, pp. 5-36 (CR)

Part VI: Bankruptcy, a Case Study

Week Thirteen: History of the Bankruptcy Field within the Legal Field—Bourdieu's Concept of "Field"

Assigned Readings:

Professors article

Bourdieu, Pierre. "The Force of Law" (CR)

Class One: The Concept of "Debtor" and "Failure" in Legal Discourse—Foucault's Notions.

Conclusion and Final

Academic Honor Code

Membership in the student body of Rollins College carries with it an obligation, and requires a commitment, to act with honor in all things. Because academic integrity is fundamental to the pursuit of knowledge and truth and is the heart of the academic life of Rollins College, it is the responsibility of all members of the College community to practice it and to report apparent violations.

The following pledge is a binding commitment by the students of Rollins College:

The development of the virtues of Honor and Integrity are integral to a Rollins College education and to membership in the Rollins College community. Therefore, I, a student of Rollins College, pledge to show my commitment to these virtues by abstaining from any lying, cheating, or plagiarism in my academic endeavors and by behaving responsibly, respectfully and honorably in my social life and in my relationships with others.

This pledge is reinforced every time a student submits work for academic credit as his/her own. Students shall add to all papers, quizzes, tests, lab reports, etc., the following handwritten abbreviated pledge followed by their signature:

"On my honor, I have not given, nor received, nor witnessed any unauthorized assistance on this work."