

Spring 2012
070.655

The Place of Law

Wednesday 1:00-3:00
Macauley 400

Law is a system of rules and agreements that governs and guides social life. Regardless of whether these rules are grounded in legislative codes or unwritten traditions, law gains force—and definition—through its claims to universality, and hence placelessness. In European political theory, both the sovereign power that animates understandings of law as command (Austin, Hobbes) and the notions of nature and divinity that underwrite ideas of natural law (Rousseau) assign an origin to law that is sanctified as both universal and “out of place.” In modern states, the dispersion of authority in regulatory and “soft law” further attenuate law’s appeal to location and its normative grounds in social and political life.

Anthropologists, on the other hand, have often engaged law through idioms of locality, singularity, and place. They have debated whether local traditions and customs can be said to constitute broader legal principles and systems; they have explored the ways in which local cultural and symbolic systems shape legal interpretation; and they have looked at the ways in which state-enforced legalities shape and constrain local political and economic life. Although these approaches to law differ, what unites them is a concern with understanding how “law” is marked by the *place* from which it invokes either custom or command. At stake as well, are the twin questions of what constitutes law, and if it is indeed possible to think of a “law” that is *not* itself grounded in the modes of emplacement and representation that constitute the state?

Through readings drawn from anthropology, legal studies, and philosophy, this course explores the relationship of law to place. What affective force does law gain through its appeal to origins and place? How does law localize ideals of belonging, community and tradition? We begin by asking how place is inscribed in the ideals of sovereignty and nature that underwrite European liberal philosophies of law, norm and social contract. We then consider how law situates the limits of the social, and how the figure of law changes when we approach it as a more diffuse system of creativity, interpretation and affect. Finally we explore how the spatializing idioms of sovereignty and jurisdiction are unsettled in both regulatory regimes of governance and indigenous concepts of deterritorialized community.

Requirements: This course will be run as a seminar. In addition to completing all assigned readings and participating fully in all class discussions, students are responsible for:

- a) the preparation and presentation of at least one seminar report in which they highlight important points in the assigned readings. This should not be a summary of the reading(s), but rather a thought-piece meant to stimulate discussion, voice your concerns or queries about the text, and bring out points of comparison with other texts and authors we have

read in class. Each week the student (or students) responsible for presenting the readings should also circulate, by email, a list of questions or points for discussion in that week's class. *This list should be circulated by email at least 24 hours before the class meets (ie, the Tuesday morning before the class in which you will initiate the seminar discussion).* To further facilitate discussion, students can also circulate written versions of their seminar report in advance, although they are not required to do so.

- b) A 8-10 page mid-term essay, to be handed in on **Monday March 26**.
- c) A final 10-20 page research paper due on **May 19**. For the final research paper, students can choose to develop an empirical or ethnographic materials from their own research in conversation with the texts and theoretical approaches discussed in class; or to develop an extended theoretical discussion of law and place that draws from assigned and additional texts. An abstract and working bibliography for the final paper should be turned into the instructor by **April 13**. Advances on the final paper will be discussed in class during the final two weeks of the semester.

Schedule of readings:

February 1. Introduction

February 8.

J-J. Rousseau. *The Social Contract* (1762) **read espilly. Books I and II**

Thomas Hobbes. 1651. *Leviathan*. London: Penguin Classics. Read: Chapters XIV & XV. **(pp.189-217 of Penguin edition)**

February 15.

Jacques Derrida. "The Force of Law" In D. Cornell, M. Rosenfeld, & DG Carlson, eds. *Deconstruction and the Possibility of Justice*, pp. 3-65

Robert Cover. "Violence and the word." In M Minow, M. Ryan & A. Sarat, eds., *Narrative, Violence and the Law: The Essays of Robert Cover*, pp. 203-238. Ann Arbor: Univ. of Michigan Press

recommended:

Walter Benjamin. 1986. "Critique of Violence." In *Reflections*, pp.277-300. New York: Schocken

February 22.

Michel Foucault. 2007 *Security, Territory Population. Lectures at the College de France 1977-1978*; **read pp. 1-86 (Lectures 1-3)**. New York: Palgrave Macmillan.

Francois Ewald. "Norms, Discipline and the Law," *Representations*, 30(Spring 1990): 138-161

Mitchell Dean. 2001. "Demonic Societies: Format: liberalism, biopolitics, and sovereignty". In F. Stepputat & T. Hansen, eds. *States of Imagination: Ethnographic Explorations of the Postcolonial State*, pp. 41-64. Durham & London: Duke University Press

February 29.

Emile Durkheim. 1983. *Durkheim and the Law*. Stephen Lukes, editor. New York: Saint Martin's Press

read : "Law as an Index of Social Solidarity," "From Repressive to Restitutory Law," "Crime and Punishment," and "The Nature of Contract." Pp. 1-101, 192-236.

March 7.

Bronislaw Malinowski. *Crime and custom in Savage Society (1926)*. London: Kegan Paul.

March 14

Sally Falk Moore. 1978. *Law as Social Process: An Anthropological Approach*. Routledge. **Read Chapter 2: "Law and Social Change: the Semi-Autonomous Social Field as an Appropriate Object of Study" pp. 54-81.**

Mariana Valverde. 2003. *Law's Dream of a Common Knowledge*. Princeton: Princeton University Press; **read Introduction and Chapter 7 (pp. 1-27 & 167-192)**

March 21. Spring Break (no class)**March 26.** *Midterm Essay due.***March 28.**

Juan Obarrio. 2010. "Beyond Equivalence: The Gift of Justice in Mozambique," *Anthropological Theory*, 10(1):1-8

Rachel Sieder. 2010. "Legal Cultures in the (Un)rule of Law: Indigenous Rights and Juridification in Guatemala." In R. Sieder, J. Cousa & A. Huneeus, eds. *Cultured of Legality: Judicialization and Political Activism in Latin America*, pp. 161-181. Cambridge & New York: Cambridge University Press

Sally Merry. 1998. "Law, culture and cultural appropriation," *Yale Journal of Law and the Humanities*, 575-603

recommended:

G. Teubner. 1992. "The Two faces of Janus: Rethinking Legal Pluralism," *Cardozo Law Review*, 1443.

April 4.

Karena Shaw. 2008. "Adjudication: Paradoxes of Law and Sovereignty." In *Indigeneity and Political theory: Sovereignty and the limits of the Political*, p. 107-135. New York & London: Routledge

Claire Colebrook. 2009. "Legal theory After Deleuze." In Rosi Braidotti, Claire Colebrook, Patrick Hanifin (eds.). *Deleuze and Law: Forensic Events*, pp.6-24. New York: Palgrave Macmillan

recommended:

R Ford. 1999. "Law's Territory: A History of Jurisdiction." *Michigan Law Review*, Vol.97:843-930

April 11.

Filippo M. Zerilli. 2010. "The rule of soft law: An introduction." *Focaal*, 56:3-18

Gunther Teubner. "Global Bukowina: Legal pluralism in the world society." In G. Teubner, ed. *Global Law without a state*, pp.3-28. Brookfield; Dartmouth

Sally Merry. 2006. "Anthropology and International Law." *Annual Review of Anthropology*, 35:99-116

recommended:

Anna di Robilant. 2006. "Genealogies of Soft Law." *American Journal of Comparative Law*, 54(3):499-554

April 13. *Annotated bibliography and abstract for final paper due*

April 18.

Kristin Bergtora Sandvik. 2011. "Blurring boundaries: REfugee Resettlement in Kampala: Between the Formal, the Informal and teh Illegal." *PoLAR*, 34(1):11-32

David Szablowski. 2007. "The World Bank Safeguard Policy Regime: A Globalising Regulatory Model," In D. Szablowski, *Transnational Law and Local Struggles: Mining, Communities and the World Bank*, pp. 101-136 (Hart Monographs in Transaitonal and International Law)

Arun Agrawal. 2010. "Environment, Community, Government." In I. Feldman & M. Ticktin, eds. *In the Name of Humanity: The Government of Threat and Care*, pp. 190-217. Durham, NC y London: Duke University Press

April 25 & May 2. Discussion of final Paper projects

May 9. Study Week

May 19. Final papers due. No incompletes will be granted