

School of Undergraduate Studies

Ambedkar University Delhi

Course Outline

Time Slot-_____

Course Code: SLG2LPFC005

Title: Sociology of Law

Type of Course: Core

Cohort for which it is compulsory: MA Law Politics and Society

Cohort for which it is elective:

No of Credits: 4

Semester and Year Offered: 2nd semester, 1st year students

Course Coordinator and Team: Dr. Anuj Bhuwania

Email of course coordinator: anujbhuwania@gmail.com

Pre-requisites: none

Aim: This course will serve to provide an introduction to sociological and anthropological traditions of understanding law. It will be a survey course and will cover a fairly wide area: it would introduce students to classical as well as contemporary debates in social theory around law, retrace the evolution of anthropological debates around law focusing on their key theoretical controversies, and finally deals with some central debates in the sociology of Indian law.

Brief description of modules/ Main modules with readings:

We will begin this course with an examination of classic debates in social theory about the nature of modern law. We will then briefly examine the legal anthropological tradition, focusing on classic legal ethnographies. We then look at the ‘Law and Society’ tradition and go over some of its key debates. This will prepare the ground for our final object of study: sociological studies of law in India. Accordingly, there will be 4 modules in this course:

Module 1 will be on Law and modern social theory. In this section we will examine classic debates about the nature of modern law in social theory. There will be four principal components. The first will deal with the concerns vis-à-vis law of classical social theory – Montesquieu, Maine, Marx, Weber and Durkheim—its central problem being understanding the role of law in the rise of modernity and capitalism as well as examining the peculiarly modern nature of the new legal form. The second component will concentrate on Foucault’s insights on proliferation of disciplinary norms in the modern era and their relation to transformations of sovereignty and the juridical institutional fields. The third

component will examine the Weimar era writings on law and the state of exception by Walter Benjamin, Carl Schmitt and Franz Neumann, and will then revisit these key texts through their influential re-readings by Derrida and Agamben.

Module 2 will be on Histories and classics of legal anthropology. In this module we will first read some classic debates in legal anthropology and read some historically influential legal ethnographies. We then move on to more contemporary legal ethnographies with discursive and genealogical concerns being foregrounded.

Module 3 will be on the ‘Law and society’ tradition. In this module, we will study the tradition of sociological study of law within legal academia, with its formulation of ‘sociological jurisprudence’ and the American ‘law and society’ approach. We will focus on key debates in this field, including the concepts of legal pluralism, legal transplants, popular justice and legal culture, as well as read some classic contributions of this tradition.

Module 4 will focus on the Sociology of law in India. This course will culminate with a focus on sociological research on law in India. Two main concerns emerge: the project of the postcolonial state to reconfigure social relations through law with its impact on gender, caste and community; and statist attempts to deal with popular justice forms and experiments to revive them.

Background Books

The following books provide a useful overview of the field

1. Moore, Sally F., (ed.) *Law and anthropology: a reader*. Wiley-Blackwell, 2004.
2. Galanter, Marc. *Law and Society in Modern India*. 1989. OUP: Delhi.
3. Upendra Baxi, *The crisis of the Indian legal system*, Vikas Publishers, 1982.

Syllabus with List of Readings

Module 1: Law and Modern Social Theory

Week 1:

Sally Falk Morre, *Law and Anthropology*, p. 12-24 (Blackwell, 2005)
 Max Rheinstein (ed.), *Max Weber on Law in Economy and Society*, (Simon & Schuster, 1954) (*Selections*)
 Trubek D, “Max Weber on law and the rise of capitalism,” *Wisconsin Law Review* 1972: 720-53
 Trubek, David, “Max Weber’s Tragic Modernism and the Study of Law in Society,”

	<i>Law and Society Review</i> , Vol. 20, No.4 (1986) pp 573-598
Week 2:	<p>S. Spitzer, "Marxist perspectives in the sociology of law." <i>Annual Review of Sociology</i>, 1983, 9:103--124.</p> <p>Tigar, Michael and Levy, Madeleine (2000) <i>Law and the Rise of Capitalism</i>, Monthly Review Press. (<i>Selections</i>)</p> <p>Durkheim, Emile. <i>The division of labor in society</i>. Simon and Schuster, 1997. (<i>Selections</i>)</p> <p>Lukes, Steven, and Andrew T. Scull, eds. <i>Durkheim and the Law</i>. Oxford: Martin Robertson, 1983. (<i>Selections</i>)</p>
Week 3	<p>Foucault, Michel, <i>Discipline and Punish</i>, Vintage books, 1977.</p> <p>Foucault, M. 1978 [1976] 'Right of Death and Power over Life', in M. Foucault, <i>The History of Sexuality, Vol. 1: An Introduction</i>. New York: Pantheon Books, pp. 133-159</p> <p>Michel Foucault, "About the Concept of the Dangerous Individual in Nineteenth Century Legal Psychiatry," and Foucault, Michel, "Omnes et Singulatim: Toward a Critique of Political Reason," from Foucault, Michel, and James Faubion. "<i>Power: Essential Works of Michel Foucault 1954-1984, vol. 3.</i>" London: Allen Lane (2000).</p> <p>Foucault, Michel, and François Ewald. "<i>Society Must Be Defended</i>": <i>Lectures at the Collège de France, 1975-1976</i>. Vol. 3. Macmillan, 2003.</p>
Week 4	<p>Schmitt, Carl. 1985. <i>Political Theology</i>, MIT Press.</p> <p>Benjamin, Walter, "Critique of Violence" in <i>Reflections</i>, Schocken Books, 1978, pp. 277-300.</p> <p>Scheuerman, William (ed.) <i>The Rule of Law Under Siege: Selected Essays of Franz Neumann and Otto Kirchheimer</i>, pp. 101-141</p> <p>Derrida, Jacques, "Force of law: The Mystical Foundation of Authority," in Drucilla Cornell et al (ed.), <i>Deconstruction and the Possibility of Justice</i>, Routledge, 1992, pp.3-67.</p> <p>Agamben, Giorgio, and Marilene Raiola. <i>Homo sacer</i>. Stanford: Stanford University Press, 1998.</p> <p>Agamben, Giorgio, <i>State of Exception</i>, University of Chicago Press, 2005.</p>
Module 2: Histories and classics of legal anthropology	
Week 5 & 6	Comaroff, J. L. and Comaroff, J., "Reflections on the Anthropology of Law,

	<p>Governance and Sovereignty,” In <i>Rules of Law and Laws of Ruling: On the Governance of Law</i>. von Benda-Beckmann, F., von Benda-Beckmann, K., and Eckert, J., eds. Pp. 31-59. Farnham: Ashgate Publishing, 2009</p> <p>Sally Falk Morre, <i>Law and Anthropology</i>, p. 65-100 (Blackwell, 2005)</p> <p>Clifford Geertz, “Local Knowledge: Fact and Law in a comparative perspective,” in <i>Local Knowledge: Further Essays in Interpretive Anthropology</i></p> <p>Comaroff, J. and Roberts, S., <i>Rules and Process: The Cultural Logic of Dispute in an African Context</i>. 1981. Chicago: University Of Chicago Press.</p> <p>Clifford, James, "Identity in Mashpee," in <i>The Predicament of Culture: Twentieth – Century Ethnography, Literature and Art</i> (Cambridge, MA, and London: Harvard University Press, 1988)</p> <p>B Latour, <i>The Making of Law: an ethnography of the conseil d'etat</i>. Polity Press, 2009</p>
<p>Module 3: The ‘Law and society’ tradition</p>	<p>.</p>
<p>Week 7, 8 &9:</p>	<p>Friedman, Lawrence M. "The Law and Society Movement,” <i>Stan. L. Rev.</i> 38 (1985): 763.</p> <p>Cotterrell, Roger (1998) ‘Why must legal ideas be interpreted sociologically’ <i>Journal of Law and Society</i> 25/ 3 1998: 171-192.</p> <p>Ehrlich, Eugen. <i>Fundamental principles of the sociology of law</i>. Transaction Books, 1936. (Selections)</p> <p>Pound, Roscoe, ‘Law in Books and Law in Action’, 44 <i>Am. Law Rev</i>, 1910, pp.12-36</p> <p>*Galanter, Marc. "Why the "haves" come out ahead: Speculations on the limits of legal change." <i>Law & Society Review</i> 9.1 (1974): 95-160.</p> <p>Y. Dezalay and B. Garth, ‘Law, Lawyers and Social Capital: ‘Rule of Law’ versus Relational Capitalism,’ <i>Social and Legal Studies: An International Journal</i>, 1997.</p> <p>Cotterrell, Roger (1997) ‘The concept of Legal culture’ in David Nelken ed. <i>Comparing Legal Cultures</i>: 13-32.</p> <p>Friedman, Lawrence 'The Concept of Legal Culture: A Reply', in David Nelken ed. <i>Comparing Legal Cultures</i>: 33-40.</p> <p>Watson, Alan. <i>Legal transplants: An approach to comparative law</i>. University of Georgia Press, 1974. (Selections)</p> <p>Legrand, Pierre. "Impossibility of Legal Transplants, The." <i>Maastricht J. Eur. & Comp. L.</i> 4 (1997): 111.</p> <p>Merry, Sally Engle, “Legal Pluralism,” 22 <i>Law and Society Review</i> 894 (1998)</p> <p>Tamanaha, Brian Z. "Understanding legal pluralism: past to present, local to</p>

	<p>global." <i>Sydney L. Rev.</i> 30 (2008): 375.</p> <p>Merry, Sally Engle, and Neal A. Milner, eds. <i>The possibility of popular justice: A case study of community mediation in the United States</i>. University of Michigan Press, 1995. (Chapter 1)</p> <p>Gordon, Robert. "Popular Justice." <i>A Companion to the Anthropology of Politics</i> (2007): 349-366.</p>
Module 4: Sociology of law in South Asia	
Week 10: Overview And Ethnographies of Legal pluralism and popular justice in India	<p>Galanter, Marc. <i>Law and Society in Modern India</i>. 1989. OUP: Delhi. (Selections)</p> <p>Srinivas, M.N. 2004. "The Study of Disputes in an Indian Village (1959)," "A Caste Dispute among the Washermen of Mysore (1954)," "A joint family dispute in a Mysore village (1953)," and "The Case of the Potter and the Priest (1959)," <i>The Oxford India Srinivas</i>, New Delhi: Oxford University Press. Pp. 93-99, 100-121,122-142,143-157</p> <p>Galanter, M. and Catherine S. Meschievitz, "In Search of Nyaya Panchayats: The Politics of a Moribund Institution" in R. Abel (ed.), <i>The Politics of Informal Justice: Comparative Studies</i>, New York: Academic Press (1982) pp. 47-77</p> <p>Eckert, Julia. 2004. Urban Governance and Emergent Forms of Legal Pluralism in Mumbai", <i>Journal of Legal Pluralism</i>, Nr. 50: 29-60</p> <p>Galanter, Marc and Jayanth K. Krishnan. 2004. "Bread for the Poor: Access to Justice and the rights of the needy in India." <i>Hastings Law Journal</i>, Vol. 55, No. 4, 789-833</p>
Weeks 11: Gendered lives of Indian law: Ethnographies	<p>Mody, Pervez. <i>The intimate state: Love-marriage and the law in Delhi</i>. Routledge, 2008. (Selections)</p> <p>Baxi, Pratiksha. <i>Public Secrets of Law</i>. Oxford University Press. (selections)</p> <p>Chowdhry, Prem. "Private lives, state intervention: cases of runaway marriage in rural north India." <i>Modern Asian Studies</i> 38.1 (2004): 55-84.</p> <p>Redding, Jeffrey A. "The Case of Ayesha, Muslim 'Courts', and the Rule of Law: Some ethnographic lessons for legal theory." <i>Modern Asian Studies</i> 48.04 (2014): 940-985.</p>
Week 12: Constructions of Indian Society by the Indian higher judiciary	<p>Marc Galanter, "Hinduism, Secularism and the Indian Judiciary" <i>Philosophy East and West</i> 21 (4):467-487 (1971)</p> <p>Das, Veena. 1995. "Suffering, Legitimacy and Healing: The Bhopal Case" <i>In Veena Das, Critical Events: An Anthropological Perspective on Contemporary India</i>. Pp 136-174. Delhi: Oxford University Press</p> <p>Gilmartin, David. "Rule of Law, Rule of Life: Caste, Democracy, and the Courts in India." <i>The American Historical Review</i> 115.2 (2010): 406-427.</p>

Week 13: Policing and the everyday	Dhareshwar, Vivek and R. Srivatsan, "Rowdy Sheeters: An essay on Subalternity and Politics", <i>Subaltern Studies IX</i> , (1996): 201-231. Das, Veena, "The Signature of the State," in Das & Poole(ed.), <i>Anthropology in the Margins of the State</i> , School of American Research Press, 2004, pp. 225-252. Bordia, Devika, "Cultures of Policing: Panchayat-Police Practices and the Making of a Criminal Case." In <i>Regimes of Legality: Ethnography of Criminal Cases in South Asia</i> (ed.) Daniela Berti and Devika Bordia, Oxford University Press, 2015
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Assessment Details with weights:

Class Presentations: 15%

Mid-term examination: 30%

Report on Fieldtrip to a Delhi Trial Court: 15%

End-term Examination: 30%

Class participation: 10%