

Course Title: Law, Justice, and Legal Anthropology

Course Number: 3xxx (Mid Level)

Term: Fall 2024

Instructor: Matthew Venker

Course Description:

How do societies define, organize around, and struggle over questions of right and wrong? From early projects describing legal complexity as civilizational advancement to contemporary work on traffic disputes and state fascism, anthropology has long sought to answer this question by studying law. Legal anthropology approaches law as a structure of social power that is always plural, often uneven, and never agreed upon. Anthropologists study law as it is established in myth, in unstated social practices, in cultural convention, in extra-state violence, and even in its bureaucratic enshrinement as legislation and litigation. What unites these disparate field sites is a belief that better understanding social contentions over law allows us to discuss justice: how we pursue it; why we too often fail to achieve it; and what we even mean by it in the first place. Through critically interrogating the social relations and power structures designed by law, we can begin to imagine new possibilities for justice.

This course is intended as an introduction to the field of legal anthropology for advanced sociology/anthropology students and as an introduction to critical sociocultural perspectives on law for legal studies students, future law students, and anyone interested in understanding how law intersects with social justice. Through a selection of core and emergent texts in anthropology, law and society scholarship, and even documentary film, podcasts, and fiction, we will study interactions over law in through different time periods and diverse global contexts. Together we will grapple with questions of how law shapes social consciousness, whether law enables or constrains the pursuit of social welfare, and what we even mean by 'law' in the first place.

Course Goals

This course is designed to facilitate an engaged and collaborative exploration of law as a contentious cultural innovation. As such, I identify five specific student learning outcomes for this course:

- Students will be able to articulate the complexity of law and justice as sites of power.
- Students will be able to formulate research questions that allow them to independently explore individual interests regarding law and society through a course research paper.
- Students will be able to apply theoretical tools from anthropology and sociology in their analysis of questions regarding law and justice.
- Students will be able to effectively communicate their understanding of complex social issues in both oral discussions and written papers.
- Students will be equipped to engage the world through personal or career pursuits regarding law and social justice outside of this class.

Course Expectations

Academic Integrity

This course will require you to produce and share original thinking and writing on important contemporary topics. You are encouraged to learn from each other, and to follow any exploratory rabbit holes you might find yourself going down in the course of the reading and research that you will do for this class. You are also expected to adhere to the university's code of academic honesty in drawing on whatever influences you find persuasive. This might mean following formal citation rules in your term paper, or simply acknowledging that what you're sharing to the class was actually a great point made by a classmate in a small group discussion. If you have any questions on how to make sure your assignments reflect your own work and that other's contributions are properly credited, please come speak to me directly. Failure to follow our shared expectations, and the college's policies, will result in formal action taken by the college.

Communication

Productive engagement on pressing and contentious issues requires a space of compassion, openness, and inclusivity. Classroom discussions are our primary learning tool in this course. Our learning is therefore contingent upon our shared responsibility for establishing a fun and welcoming environment where difference, debate, and disagreement do not detract from our ability to share care and consideration for our classmates. It is also important that we all actively cultivate broad participation. Some people are always ready to share thoughts and comments; others need time and space to get their thoughts in order before they share. People with all different levels of comfort in public communication will offer important contributions to our shared learning, and we will have to work together to ensure that all people are able to share what they have to offer.

I also expect you to be proactive in communicating with me regarding questions, problems, or particular needs you might have in relation to this course. For short, simple questions, it will be best to message me through email. For more involved questions or discussions about assignments, readings, or accommodations, I will ask to visit me during my office hours, which I hold [every Thursday, from 2-4 pm]. I also encourage all students to come introduce yourself to me during my office hours in the first 3 weeks of the course!

Course Requirements

Grade Distribution

Active Attendance	20%
Weekly Journals	10%
Exam Papers	40%
<i>Breakdown:</i>	
Paper 1	15%
Paper 2	15%
Paper 3	10%
Research Paper (Final Exam)	30%

Description of Assignments

1. **Active Attendance** (20%)

This course is designed not only to introduce you to themes and topics in legal anthropology, but also to develop your abilities to think critically on the law. Discussion with your peers is therefore a vital experience. Discussion will: introduce you to new perspectives on the readings; expose you to critical perspectives on your opinions, analyses, and understandings; and offer you a space in which you can practice both defending your opinions and changing your mind gracefully on a matter when persuaded by new arguments or information. I describe this section as 'active attendance' because simply showing up and not participating will not merit participation points. You are expected to complete all assigned readings at the beginning of class and share your thoughts, opinions, or feedback for others.

Participation is an integral part of this course, and it is weighted as such. But I also understand that life doesn't wait for the end of the school year. I will automatically drop one unexcused absence for each student at the end of the term. I am also generally willing to excuse additional absences for many types of disruption, so long as you clear them with me prior to class or, in the case of an emergency, as soon as you are safe, composed, and able to reach out. After one unexcused absence, each successive unexcused absence will drop your grade 1%.

Note: Some sections of the assigned readings are termed as 'current events.' These are designed to bring our attention to important local, national, and global issues, and think through how the tools of legal anthropology can help us better understand them. I invite students to suggest replacement readings that engage your interests or the social issues you care about. Students who submit suggestions for replacement readings will be asked to offer a brief, informal introduction (a few sentences of background, 1-2 minutes max) to the topic in class, and will be given a 1% bonus to their overall grade for their effort.

2. **Weekly Journals** (10%)

You will be required to keep a journal in which you answer a daily question after you have completed all that day's assigned readings. Your answer is expected to be exactly one paragraph. This assignment is designed to keep you on track with the readings while also forming some critical thoughts on them before class discussion. At the beginning of class each Thursday, you will share your thoughts on the week's questions with a classmate, who will write a summary of your answers and submit them for credit that week. Since a classmate is submitting their impression of your work, these journals are only graded for completion. If you miss class on a Thursday, please come to my office hours to submit your journal reflection orally to me.

3. **Exam Papers** (40%)

We will have three take home exams this term. In combination, these exams make up the majority of your grade. All exam questions are already available in the syllabus, so you are free to work ahead. However, it will be advantageous to wait until the week of or the week before each exam is due to ensure you have the opportunity to think through your answers and develop your thought process in collaboration with your peers in discussion.

Each paper is due at midnight the day before* our discussion begins. Late submission will merit a 5% deduction for each 12 hour period. Papers will no longer be accepted by the end of the week that they are due, and will merit a 0%.

* To avoid having a paper due at midnight on Halloween, I have made the second paper due the Sunday night before class on 11/1.

4. **Research Paper (30%)**

The final for this course will be a research paper on a topic of your choice. There will be two options, listed below. Further details on each option will be introduced on week 4, where we will have a workshop on research methods and begin exploring possible research topics. The project will be broken down into three stages. The first two stages – the research exploration assignment due week 5 and the prospectus and outline due week 9 – will not be marked down, but 5% will be subtracted from your final paper grade for each of these that are incomplete. The successive stages and lengthy process of this final project are not intended to detract for your final grade during nascent thinking but rather to support you throughout the project.

The final paper will be 3500-4000 words (~12-14 pages) and will be graded for depth and originality of thinking; completeness of research; and writing. A detailed rubric will be provided when the project is introduced in week 4.

Paper Option 1 – Legal Research and Analysis Paper

Paper Option 2 – Rewritten Judicial Opinion (Feminist Judgments Project Model)

Course Schedule and Assignments

Week/Date	Class Topic + Readings and Journal Question	Assignment Due
Week 1	Introduction	
Tu: 9/13	<i>No Readings, No Question</i>	
Th: 9/15	Beginnings of the Field <u>Readings:</u> Selections of Malinowski, "Crime and Custom in Savage Society" <u>Questions:</u> <i>How does Malinowski define law?</i> <i>What are the benefits and limitations of his definition?</i>	Week 1 Journal
Week 2	Connections Between Law and Culture	
Tu: 9/20	<u>Readings:</u> 1. Chase, "Law, Culture, and Ritual," Part 1, ch 1-3 (45 pages) <u>Questions:</u>	

	<p><i>Chase contends that 'dispute processes are... a reflection of the culture in which they are embedded.' How do you resolve disputes in your own life, and what does this say about your 'culture?'</i></p>	
Th: 9/22	<p><u>Readings:</u></p> <ol style="list-style-type: none"> 1. Chase, "Law, Culture, and Ritual," Part 2, ch 4, 7-9 (52 pages) <p><u>Questions:</u></p> <p><i>Chase argues that changes in dispute resolution processes provoke broader socio-cultural changes. Describe an unsatisfying aspect of dispute resolution in your culture. How would you change these processes and what broader impacts would such a change have?</i></p>	Week 2 Journal
Week 3	Law and Power: Marxist Legal Traditions	
Tu: 9/27	<p><u>Readings:</u></p> <ol style="list-style-type: none"> 1. Collins, "The Marxist Approach to Law" (16 pages) 2. Fitzpatrick, "Is it Simple to be a Marxist in Legal Anthropology?" (14 pages) 3. Nader, "Harmony Ideology," Introduction and Ch 5 (30 pages) <p><u>Questions:</u></p> <p><i>Given your readings of Collins and Fitzpatrick, would you define Nader's approach as Marxist? Describe why or why not.</i></p>	
Th: 9/29	<p><u>Readings (Choose 1 to read before class)</u></p> <ol style="list-style-type: none"> 1. Werbner, "The Duty to Act Fairly," (29 pages) 2. Besky, "Darjeeling Distinction," Introduction (35 pages) <p><u>Question:</u></p> <p><i>Compare Nader to the work you chose for today. How does the idea of 'harmony' or 'justice' in this reading differ from Nader?</i></p> <p>PAPER 1 ASSIGNED:</p> <p>Read whichever of today's paper you did not read. Answer each questions below in 500 words or less (per question).</p> <ol style="list-style-type: none"> 1. How do Werbner and Besky approach labor differently? 2. How does law organize power in these different settings (India and Botswana)? 3. Focusing on either Werbner or Besky, describe whether you think law works as a 	Week 3 Journal

	tool of the powerful or a weapon of the weak.	
Week 4	Legal Pluralism and Anthropological Methods for Studying Law	
Tu: 10/4	<u>Readings</u> <i>No readings, but consider reading ahead if time allows. TBD Podcast (~45 minutes). Lecture and workshop on research methods.</i> Research Exploration Assigned	PAPER 1 DUE: 10/3, 11.59 pm
Th: 10/6	<u>Readings:</u> <ol style="list-style-type: none"> 1. Merry, "Law: Anthropological Aspects" (4 pages) 2. Freeman and Napier, "Law and Anthropology" (11 pages) 3. McConnachie, "Law and Anthropology" (xx pages) <u>Question:</u> <i>Describe an 'everyday' space of life that you feel 'law' does or should exert itself. Describe how you might go about studying law's impacts, power, or absence in this space.</i>	Week 4 Journal
Week 5	Ethnographies – Law, Custom, and Religion	
Tu: 10/11	<u>Readings</u> <ol style="list-style-type: none"> 1. Beyer, "The Force of Custom," Introduction, Chs 1, 4, and 7 and Conclusion (88 pages) <u>Question:</u> <i>How does custom construct social authority outside of state law? How does the specific historical context of post-Socialist Kyrgyzstan affect the intersection of custom and authority?</i>	Research Exploration Assignment
Th: 10/13	<u>Readings (Read section A + 2 from section B)</u> A <ol style="list-style-type: none"> 1. Langbein, "History of the Common Law" (12 pages) B <ol style="list-style-type: none"> 2. Gordon, "The Mormon Question," Introduction and Ch 3 (25 pages) 3. Ergene, "Halal Food," Ch 3 and 7 (26 pages) 4. Laidlaw, "Riches and Renunciation," Ch 7 (22 pages) 5. Cooper, "Talmudic Territory," (19 pages) 	Week 5 Journal

	<p><u>Question</u> <i>How do you imagine believers approach the distinction between religious and secular law?</i> <i>How do you imagine non-believers approach religion's influence on secular law?</i></p>	
Week 6	Ethnographies – Law and Gender	
Tu: 10/18	<p><u>Readings:</u></p> <ol style="list-style-type: none"> 1. CBC, "The Code" (*Video,* ~41 minutes) 2. Baxi, "Law, Emasculation, and Sexual Violence in India" (9 pages) 3. Merry, "Early Pacific Encounters and Masculinity" (11 pages) 4. Parker, "Law, Honor, and Impunity in Spanish America," (30 pages) <p><u>Questions:</u> <i>How do gendered social privileges relate to law?</i> <i>How does law empower gendered social hierarchies?</i></p>	
Th: 10/20	<p><u>Readings (Read all 1 set A + all from set B):</u></p> <p>A</p> <ol style="list-style-type: none"> 1. Selections from Deer, "The Beginning and End of Rape," (~20 pages) 2. Selections from Merry, "Human Rights and Gender Violence," (~20 pages) 3. Alipour "Transgender Identity, The Sex Reassignment Surgery Fatwa and Islamic Theology of a Third Gender" (16 pages) <p>B</p> <ol style="list-style-type: none"> 1. Griffiths, "Remaking Law" (15 pages) [+ contemporary readings – will source from current events each semester – samples from Fall 2022 include: 2. Invisibilia, "A little bit pregnant" (*podcast* 28 minutes) 3. <i>Reading on Trans Athletes Bans</i>] <p><u>Questions:</u> <i>Explain whether or not you believe law can be used as a source for dismantling gendered hegemonies.</i></p>	Week 6 Journal
Week 7	Ethnographies – Race and Law in America	
Tu: 10/25	<p><u>Readings</u> (Read both from A and [x] from B):</p> <p>A</p> <ol style="list-style-type: none"> 1. Haney-Lopez, "White by Law," selections (20 pages) 	

	<p>2. Buck, “Worked to the Bone,” selections (20 pages)</p> <p>B</p> <p>[contemporary readings – will source from current events each semester – samples from Fall 2022 include:</p> <ol style="list-style-type: none"> 1. Johnson, “Guns in the Family” 2. Wallace-Wells, “How A Conservative Activist Invented the Conflict Over Critical Race Theory” 3. Selections from Blanchfield, “Gunpower,” or Blanchfield’s feature on the ‘Know Your Enemy’ podcast] <p><u>Question:</u> <i>What is the relationship between whiteness and law in America? How do you understand the relationship between law, power, and whiteness following the civil rights movement?</i></p>	
<p>Th: 10/27</p>	<p><u>Readings</u> (Read Nash + 1 from set A and 1 from set B)</p> <p>B)</p> <ol style="list-style-type: none"> 1. Nash, “The Ordinary Joys of Black Motherhood” <p>A</p> <ol style="list-style-type: none"> 1. Capulong et al, “Race, Racism, and American Law,” selections (~20 pages) 2. Bell, “Race, Racism, and American Law,” selections (20 pages) 3. Crenshaw, “Words that Wound,” selections (20 pages) [note: find update from ‘On Intersectionality’ when out, ~2023] <p>B</p> <ol style="list-style-type: none"> 1. Nesper, “The Walleye War,” Introduction and Ch 3 (29 pages) 2. Loh, “Diasporic Dreams” (32 Pages) 3. De Genova, “The Deportation Regime,” (36 pages) 4. Bhartia, “Fictions of Law” (22 pages) 5. Kennedy, “Interracial Intimacies,” Introduction (35 pages) <p>PAPER 2 ASSIGNED: Choose one of the Thursday set B readings that you did not already read for each week. Reference</p>	<p>Week 7 Journal</p>

	<p>the reading of your choice to answer each of the following questions in 500 words or less (per question).</p> <ol style="list-style-type: none"> 1. What is the relationship between customary authority, religion, and law in the specific setting of your week 6 ethnographic reading? 2. Referencing an anthropological theme or theory we've discussed in class, describe one specific way that law either combats or enables gender based violence in the setting of your week 7 ethnographic reading. 3. How does critical race theory illustrate the relationship between law and race in the setting of your week 8 ethnographic reading. 	
Week 8	Justice – Law Outside the State	
Tu: 11/1	<p><u>Readings</u> No readings, but consider reading ahead if time allows. TBD documentary (~45 minutes).</p> <p>Lecture on informal social orders. Research workshop.</p> <p>Research Paper Assigned (Due 11/10)</p>	PAPER 2 DUE: 10/30, 11.59 pm
Th: 11/3	<p><u>Readings</u></p> <ol style="list-style-type: none"> 1. Mikuš, "The Justice of Neoliberalism" (16 pages) 2. Rhodes, "Everyday (Justice) Brokers," (20 pages) <p><u>Questions:</u> <i>How would you define justice? Based on this definition, describe the relationship between law and justice.</i></p>	Week 8 Journal
Week 9	Justice – Law Against the State	
Tu: 11/8	<p><u>Readings</u></p> <ol style="list-style-type: none"> 1. Cheesman, "Opposing the Rule of Law," Introduction and Ch 9 (24 pages) 2. Weiss, "Conscientious Objectors in Israel," Ch 4 (24 pages) <p><u>Questions:</u> <i>What is the relationship between justice and the rule of law? Who, or which institutions, should</i></p>	

	<p><i>hold authority for enacting rule of law? How can state abuses of law be curbed?</i></p>	
<p>Th: 11/10</p>	<p><u>Readings</u> (Read Both from A and Choose 1 from B)</p> <p>A</p> <ol style="list-style-type: none"> 1. Truth and Reconciliation of Canada, "Canada's Residential Schools: The History," selections from Introduction and 'The Challenge of Reconciliation' (~15 pages) 2. Monette, "US Law and Native American Rights in Action" (9 pages) <p>B</p> <p>[contemporary readings – will source from current events each semester – samples from Fall 2022 include:</p> <ol style="list-style-type: none"> 1. Native American Rights Fund readings on Line 5 resistance 2. Readings on Ojibwe suits to block wolf hunts in WI and MN 3. Case on Native rights over unoccupied lands in Herrera V Wyoming 4. Readings on ICWA cases, Brackeen V Haaland and Adoptive Couple v Baby Girl 5. Readings on OK tribal sovereignty cases, Oklahoma V Castro Huerta and McGirt V Oklahoma] <p><u>Questions</u></p> <p><i>What is the relationship between the state and law? Is it more accurate to view law as a tool of the state to control the public, or a tool of the public to control the state?</i></p> <p>PAPER 3 ASSIGNED</p> <p>Choose one of the questions below. Explain your answer to your chosen question in 1000 words or less. Reference any two ethnographic studies we encountered this semester in your answer.</p> <ol style="list-style-type: none"> 1. What is the relationship between the state, law, and justice? Explain whether you view the state as a guardian of justice or its enemy. 2. What is the relationship between law and politics? Where does law derive its cultural authority from? How does the source of law's authority affect its relationship to justice? 	<p>Week 9 Journal</p> <p>Research Paper Prospectus and Outline Due</p>

	<p>3. Legal scholar Brian Tamanaha has argued that the social scientific term 'legal pluralism' is a folly which risks 'thinning out' the concept of law to include any type of normative expectation or social custom. Explain whether or not you agree with Tamanaha's assessment.</p>	
Week 10	Conclusion	
Tu: 11/15	<p><u>Readings:</u> Selections from fiction, examples include:</p> <ol style="list-style-type: none"> 1. Kafka: "In the Penal Colony" and "Before the Law" 2. Le Guin, "The Ones Who Walk Away from Omelas" 3. Reva, "Letter of Apology" <p><u>Question:</u> <i>Describe one concept that you learned in class this term. Describe how you imagine this term will be relevant in your life once this class is over OR, alternatively, why you expect that term will hold no relevance in your future.</i></p>	<p>PAPER 3 DUE: 11/14, 11.59 pm Week 10 Journal</p>
Wed: 11/16 Last Day of Classes	***No class Thursday***	
Week 11 FINALS		FINAL (RESEARCH PAPER) DUE 11/21, 11.59 pm