

B. Stoeltje  
Off Hrs:Th – 2:30-4:30  
Off: SB 238; 5-8014

Ant:E675- 27471; F755-26746  
F '05; Wed: 4-6:15  
stoeltje@indiana.edu

**LAW AND CULTURE**  
**The Anthropology of Law**

**Texts:**

Cowan, Jane, M-B Dembour, Richard Wilson, eds. *Culture and Rights: Anthropological Perspectives*. Cambridge Univ. Press. 2001.

Sarat, Austin & Thomas Kearns, eds. *Law in the Domains of Culture*. Univ. Of Michigan Press. 1998.

*Women, Language, and Law in Africa*. Special Issue *Africa Today*. Vol. 49, #1. 2002.

**Assignments:**

◆◆ Write a **response** every week to the readings (2-3 pages), articulating the issues and raising questions for discussion.

▶▶ **1 Set of observations from Court Visit**

▶▶ **1 Short Paper (4-5 pages) on an issue in the anthropology of law and conclude with a proposal for your Research Paper (several paragraphs).**

▶▶ **1 Research Paper: 15-20 pages.**

**Aug. 31: INDEPENDENT OR INTEGRATED? Culture, Law, Rights**

Austin Sarat and Thomas Kearns, The Cultural Lives of Law. *Law in the Domains of Culture*. 1-20.

Jane Cowan, Marie-Benedicte Dembour and Richard Wilson, Introduction. *Culture and Rights*. 1-26.

Beverly Stoeltje, K Firmin-Sellers, O. Ogbang. Introduction to Special Issue: *Women, Language and Law in Africa*. vol. 49, #1, vii-xx; Stoeltje. Introduction. #2, vii-xiv.

**Sept. 7: IS IT LAW? Custom and Culture, Law and Society**

Bronislaw Malinowski, *Crime and Custom in Savage Society* (Introduction, Part I: Chapters xi, xii, xiii, Part II, chapt. 1) Rowman & Allheld: 1985. [1926].

E. Adamson Hoebel, *The Law of Primitive Man* (chaps 1, 2, 7). 1973 [1954] Atheneum.

J. Mensah Sarbah.. Introduction (Hollis Lynch) v-xiii, Chapter 1: Fanti Customary Laws." 15-56 *Fanti Customary Laws*. Frank Cass & CO. Ltd. 1968.[1897]

**Sept. 14: THE ASANTE and GHANA: Pre-Colonial, Colonial, and Post Colonial Law**

Rattray, *Ashanti Law and Constitution* (Preface, Table of Contents, Chapters xxv, xxvi, xxviii, xxviii, xxix, xxx). Negro Universities Press. 1969 [1929].

Tom C. McCaskie. Custom, Tradition and Law in Precolonial Asante. In *Sovereignty, Legitimacy, and Power in West African Societies*. Lit.1998. 25-47.

Gocking, Roger. Colonial Rule and the 'Legal Factor' in Ghana and Lesotho. *Africa*. 67 (1) 1997. 61-85.

Wanitzek, Ulrike. Integration of Personal Laws and the Situation of Women in Ghana:

The Matrimonial Causes Act of 1971 and its application by the Courts. Third World Legal Studies—1991.75-107.

**Sept. 21: Performing Customary Law: Language and Narrative**

- Beverly Stoeltje. Performing Litigation in the Queenmother's Court. In *Access to Justice*. Ed. Christina Jones-Pauly & Stefanie Elbern. Kluwer Law Int. 2002. 1-22.
- ..... Gender Ideologies and Discursive Practices in Asante. *Political and Legal Anthropology Review*. Vol. 23, #2. 2000. 77-88.
- Samuel Obeng & Beverly Stoeltje. *Women's Voices in Akan Juridical Discourse*. In *Africa Today*. Vol. 49, #1. 21-42.
- Gracia Clark. Market Association Leaders' Strategic Use of Language and Narrative in Market Disputes and Negotiations in Kumasi, Ghana. In *Africa Today*. Vol. 49, #1. 43-60.
- Susan Hirsch. The Power of Participation: Language and Gender in Tanzanian Law Reform Campaigns. *Africa Today*. 2002. Vol. 49. #2. 51-76.
- Mertz, Elizabeth. Legal Language: Pragmatics, Poetics, and Social Power. *Annual Review of Anthropology*. 1994. 23:435-55.
- Recommended: Robin West. *Narrative, Authority, and Law*. University of Michigan Press. 1993.

**Sept. 28: Concepts: Customary Law**

- A. N. Allott, Methods of Legal Research into Customary Law. In *Folk Law*, ed. Alison Dundes Renteln & Alan Dundes. 1994. 285-294.
- ..... The Judicial Ascertainment of Customary Law in British Africa. in *Folk Law*. 1994. 295-317.
- T.O. Elias. The Problem of Reducing Customary Laws to Writing. In *Folk Law*. Ed. Alison Dundes Renteln & Alan Dundes. 1994.319-330.
- Simon Roberts. The Recording of customary Law: Some Problems of Method. In *Folk Law*. 331-337.
- Gordon Woodman. Some Realism About Customary Law – the West African Experience. In *Folk Law*. 83-110.
- \*Sally Falk Moore, History and the Redefinition of Custom on Kilimanjaro. In *History and Power in the Study of Law*. Eds. June Starr and Jane Collier. Cornell Univ. Press. 1989. 277-301.
- Martin Chanock, Preface. *Law, Custom and Social Order*. Heinemann.1998. v-xii.

**Oct. 5: Concepts: Legal Pluralism and Cultures of Legality. Why so Controversial?**

- Sally Engle Merry. Legal Pluralism. *Law and Anthropology*. Ed. Peter Sack & Jonathan Aleck. New York Univ. Press. 1992.
- Brian Z. Tamanaha. The Folly of the 'Social Scientific' Concept of Legal Pluralism. In *Law and Anthropology*. Ed. Martha Mundy. Ashgate. 2002. 192-108.
- Franz von Benda-Beckman. Who's Afraid of Legal Pluralism? In *Legal Pluralism and Unofficial Law in Social, Economic and Political Development*. Ed. Rajendra Pradhan. Commission on Folk Law and Legal Pluralism. Vol. III 2002. 275-209

Keebet von Benda-Beckman. The Contexts of Law. In *Legal Pluralism and Unofficial Law in Social, Economic and Political Development*. Ed. Rajendra Pradhan. Commission on Folk Law and Legal Pluralism. Vol. III 2002. 299-316.

Rosemary Coombe. Contingent Articulations: A Critical Cultural Studies of Law. *Law in the Domains of Culture*. 21-64.

**Oct. 12: Where Is the Space for Law and Anthropology?**

Martha Mundy and Tobias Kelly. Introduction. *Law and Anthropology*. Ed. Martha Mundy. Ashgate. 2002. xv-xxvi.

Pierre Bourdieu. The Force of Law: Toward a Sociology of the Juridical Field. In *Law and Anthropology*. Ed. Martha Mundy. Ashgate 2002. 805-157.

Martin Chanock, African Law and Anthropologists. In *Law, Custom and Social Order*. 1998. Henimann. Ch. 2. 25-47.

Sally Engel Merry. Changing Rights, Changing Culture. *Culture and Rights*. 31-54.

**Oct. 19: Concepts: Institutions of Law and Access to Justice**

◆◆Attend a Court Session in Bloomington - write up a 2 page summary of your observations. (DUE next class) ◆◆ Class will NOT meet.

Carol Greenhouse, Interpreting American Litigiousness. In *History and Power in the Study of Law*. Eds. June Starr and Jane Collier. 1989. 252-273.

**Oct. 26: Concepts: Institutions of Law and Access to Justice, cont'd.**

⇒⇒PAPER DUE (4-5 Pgs) + Proposal for Research Paper (include at least 2 References not on the Syllabus.) (Do the readings, but no written response required).

Jones-Pauly. Introduction. *Access to Justice*. Kluwer Law Internat. 2002. vii-xiii.

Najma Moosa. The Role that Lay Muslim Judges Play in State Courts and Religious Tribunals in South Africa. in *Access to Justice*, ed. Christine Jones-Pauly & S. Elbern. Kluwer Law. 2002.99-136.

Samuel Kucherov. Indigenous and Foreign Influences on the Early Russian Legal Heritage. In *Folk Law*. 1994. vol. 1. 187-199.

Richard Erickson. Soviet Theory of the Legal Nature of Customary International Law. In *Folk Law*. 1994. vol. 1. 939-960.

Katherine Verdery. Transnationalism, Nationalism, Citizenship, and Property: Eastern Europe Since 1989. In *Law and Anthropology*. Ed. Martha Mundy. Ashgate. 2002. 239-254.

**Nov. 2: Institutions of Law and Access to Justice, cont'd: Native American Legal Issues**

James W. Zion. Searching for Indian Common Law. In *Indigenous Law and the State*. Eds. Bradford Morse and Gordon Woodman. Foris Publications. Providence, Rhode Island. 1987. 121-148.

Judge Tom Tso. Navajo Courts. In *Law and Anthropology*. Ed. Peter Sack & Jonathan

Aleck. New York Univ. Press. 1992.

Colin Samson. Rights as the Reward for Simulated Cultural Sameness: the Innu in the Canadian Colonial Context. In *Culture and Rights*. 226-248.

Deborah Poole. Between Threat and Guarantee: Justice and Community in the Margins of the Peruvian State. In *Anthropology in the Margins of the State*. Eds. Veena Das & Deborah Poole. SAR Press. 2004. 35-66.

Recommended: Tony Hillerman detective novels set on the Navajo reservation.

**Nov. 9: Discourse, Rights, Universalism and Relativism.**

Ulrike Wanitzek, The Power of Language in the Discourse on Women's Rights: Some Examples from Tanzania. *Africa Today*. 2002. 3-20.

Marie-Benedicte Dembour. Following the movements of a pendulum: between Universalism and Relativism. *Culture and Rights*. 56-79.

Anne Griffiths. Gendering Culture: Towards a plural perspective on Kwena Women's Rights. *Culture and Rights*. 102-126.

Rachel Sieder and Jessica Witchell. Advancing indigenous claims through the law: Reflections on the Guatemalan peace process. *Culture and Rights*. 201-225.

Heather Montgomery. Imposing rights? A case study of child prostitution in Thailand. In *Culture and Rights*. 80-101.

**Nov. 16 Colonialism, Globalization, Authorship and Ownership : Innovations and Implications .**

Jane Goodman. 'Stealing Our Heritage?' Women's Folksongs, Copyright Law, and the Public Domain in Algeria. *Africa Today*. Vol. 49, #1. 85-98.

Marjorie Garber. Cinema Scopes: Evolution, Media, and the Law. *Law in the ...* 121-160.

Andrew Ross. Components of Cultural Justice. In *Law in the Domains....* 203-228.

Richard Sherwin. Law in Popular Culture. In *The Blackwell Companion to Law and Society*. (ch. 6). 2004. Blackwell Publishing. Faculty Reprint Series, #1. New York Law School. 1-28.

Recommend: Feld, Steven. Pygmy Pop: A Genealogy of Schizophonic Mimesis. *Yearbook for Traditional Music*. Vol. xxviii. 1996. 1-35.

**Nov. 23: THANKSGIVING**

**Nov. 30: (AAA) Transnationalism, Internationalism, Regionalism, Individualism.**

William Ian Miller. Clint Eastwood and Equity: Popular Culture's Theory of Revenge. *Law in the Domains...* 161-202.

Carol Clover. Law and the Order of Popular Culture. *Law in the Domains...* 97-120.

Thomas Hylland Eriksen. Between Universalism and Relativism: a Critique of the UNESCO Concept of Culture. *Culture and Rights*. 127-148.

**Dec. 7: PRESENTATIONS IN CLASS – RESEARCH TOPIC**

**Dec. 12-16: RESEARCH PAPER DUE DEC 12 @ 12 NOON. My office: Stu. Bldg. 238**