

ATA 524

Legal Reforms in Turkish History: Modernity, Constitution and Justice in the Periphery

(Fall 2017)

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This is an introductory course exploring the intersections of law and society around selected themes. Major lines of socio-legal inquiry will be introduced to capture the place of legality in the recent history of semi peripheral contexts including, but not limited to, Turkey.

The basic requirements of the course are:

- 1) Regular attendance and participation in class discussions (20%)
(*More than 3 absences will mean an "F" for this course*)
- 2) A take home final exam (30 %)
- 3) A final research paper. A 3-4 page outline/plan of the final paper is required by November 11. The paper is due by December 30 (50%)

Schedule

September 21 Introduction- Modern Law

Sally Falk Moore (1978) Law as Process (Oxford), *Introduction*, (pp. 1-31)

Duncan Kennedy (2006) "Three Globalizations of Law and Legal Thought" in Trubek, David and Alvaro Santos (eds.) The New Law and Economic Development: A Critical Appraisal (Cambridge), pp. 19-73

James Whitman (1996) "The Moral Menace of Roman Law and the Making of Commerce: Some Dutch Evidence", Yale Law Journal (v. 105: 1841-1889)

Sept. 28- Oct. 5 Rationalization and Legality

Sept 28

Matthew DeFlem (2008) Sociology of Law: Visions of a Scholarly Tradition (Cambridge Univ. Press) *Ch. 2 Max Weber on the Rationalization of Law*, (pp. 37-55)

Jaber Gubrium (2016) "From the Iron Cage to Everyday Life", in Jaber Gubrium, Tone Alm Andreassen and Per Karen Solvang, eds. Reimagining the Human Service Relationship (Columbia Univ. Press), pp. 3-10 (excerpt)

Peter Baehr (2001) “The “Iron Cage” and the “Shell as Hard As Steel”: Parsons, Weber, and the Stahlhartes Gehäuse Metaphor in the *Protestant Ethic and the Spirit of Capitalism*” History and Theory (v. 40: 153-169)

Trubek, David (1972) “Max Weber on Law and the Rise of Capitalism” Wisconsin Law Review, (v. 1972, n. 3, pp. 720-753)

Ewing, Sally (1987) “Formal Justice and the Spirit of Capitalism: Max Weber’s Sociology of Law” Law and Society Review (v. 21, n. 3, pp. 487-512)

Oct. 5

Roger Cotterrell (1995) Law’s Community: Legal Theory in Sociological Perspective (Clarendon), Ch. 3 *Legality and Legitimacy: The Sociology of Max Weber* (pp. 134-159)

Max Weber (1978) Economy and Society (University of California), *The Types of Legitimate Domination*, (pp. 212-254)

October 12-19 Imperial Power and (Semi?) Peripheral Legal Formations

Oct 12

Sally Merry (1998) “Legal Pluralism” Law and Society Review (v. 22, n. 5, pp. 869-896)

Talal Asad (2003) Formations of the Secular: Christianity, Islam, Modernity (Stanford), Ch. 7 - *Reconfiguration of Law and Ethics in Colonial Egypt* (pp. 205-256)

Timothy Mitchell (2002) Rule of Experts: Egypt, Technopolitics, Modernity (University of California Press), Ch. 2 - *Principles True in Every Country* (pp. 54-79)

Oct. 19

Anghie, Antony (2004) Imperialism, Sovereignty and the Making of International Law (Cambridge), Ch 2- *Finding the Peripheries: Colonialism in Nineteenth Century International Law* (excerpts, pp. 32-65)

Umut Özsu (2016) “Ottoman International Law?” Journal of the Ottoman and Turkish Studies Association (v. 3, n.2, pp. 369-376)

Umut Özsu (2016) “The Ottoman Empire, The Origins of Extraterritoriality and International Legal Theory” in Anne Orford & Florian Hoffmann (eds.) The Oxford Handbook of the Theory of International Law (Oxford), pp. 123-137.

Turan Kayaoğlu (2010) Legal Imperialism: Sovereignty and Extraterritoriality in Japan, the Ottoman Empire and China (Cambridge), pp. 1-65

Oct. 26- NO CLASS

Nov. 2 Hybrid Lives of the Law?

Avi Rubin (2015) Law and Modernity in the Ottoman Empire (Palgrave), Chs. TBA

Iza Hussin (2016) The Politics of Islamic Law (Chicago), Chs. TBA

November 6 (M) “Constituting” the Republic- *ADDITIONAL CLASS*

Boğaç Erozan (2005) Producing Obedience: Law Professors and the Turkish State (Unpublished PhD. thesis, University of Minnesota), *Chs. 1 & 3-6* (pp. 1-18 & 49-236)

Jothie Rajah (2012) Authoritarian Rule of Law: Legislation, Discourse and Legitimacy in Singapore (Cambridge), *Ch. 1, Law, Illiberalism and the Singapore Case* (pp. 1-53)

November 9 Politics of Exceptional Legality

Joakim Parslow (2014) Lawyers on the Barricades: The Politics of Exceptional Law in Turkey, 1930-1980 (Unpublished PhD Thesis, University of Washington) *Introduction & Ch. 1* (pp. 1-106)

Tamir Moustafa (2008) “Law and Resistance in Authoritarian States: The Judicialization of Politics in Egypt” in Tamir Moustafa and Tom Ginsburg, eds. Rule by Law: The Politics of Courts in Authoritarian Regimes (Cambridge), pp. 132-155.

November 16-23 Global Authoritarian Shift and the Law

Nov. 16

Hugh Collins (1982) Marxism and Law (Oxford), *Chs. 1-3* (pp. 1-76)

Nicos Poulantzas (1978) State, Power, Socialism (Verso), *Selections* (pp. 9-46 & 76-93 & 203-247)

Nov. 23

Alexander Somek (2015) “Delegation and Authority: Authoritarian Liberalism Today” European Law Journal (v. 21, n. 3, pp. 340-360)

Michael Wilkinson (2015) “Authoritarian Liberalism in the European Constitutional Imagination: Second Time As Farce” (v. 21, n. 3, pp. 313-339)

Sune Sandbeck and Etienne Schneider (2014) “From the Sovereign Debt Crisis to Authoritarian Statism: Contradictions of the European State Project” New Political Economy (v. 19, n.6, pp. 847-871)

Nov. 30- Dec. 7 Modernity, Neoliberalism and Law

Alan Hunt & Gary Wickham (1994) Foucault and Law (Pluto), *Chs. 1-3*, (pp. 1-71)

Wendy Brown (2006) Undoing the Demos: Neoliberalism’s Stealth Revolution (MIT Press), *Chs. 1-2, 5* (17-78, 151-173)

Pat O’Malley (2014) “The Birth of Biopolitical Justice” in Ben Golder, ed., Re-reading Foucault: On Law, Power and Rights (Routledge), pp. 151-168

Thomas Lemke (2011) Biopolitics: An Advanced Introduction (NYU Press), *Ch. 3, The Government of Living Beings: Michel Foucault*, (pp. 33-52)

December 14 Resistance ?

Banu Bargu (2014) Starve and Immolate: The Politics of Human Weapons (Columbia University Press), *Intro. & Chs. 1-2* (pp. 1-124)