

ATA 524

Law and Society: Modernity, Institutions and Justice

(Fall 2018)

Z. Umut Türem

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 modern society.

The basic requirements of the course are:

- 1) Regular attendance and participation in class discussions (20%)
(*More than 3 absences will result in an automatic "F" for this course*)
- 2) Three response papers for each major block of the course (30 %)
- 3) A final research paper. A 3-4 page outline/plan of the final paper is required by November 11 (10%). The paper is due by January 5 (40%).

Schedule

Sept. 20 Introduction

SOCIOLOGICAL FOUNDATIONS

Sept. 27 The Social Basis of Law

Roger Cotterrell (1992) The Sociology of Law: An Introduction (Butterworths), Pp. 1-70

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

Oct. 4 Legitimacy, Legality and Modern Law

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)

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)

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. 11 Class, Ideology and Law

Collins, Hugh (1982) *Marxism and Law* (Oxford) Chs. TBA

Hunt, Alan (1993) *Explorations in Law and Society, toward a Constitutive Theory of Law* (Routledge) Ch. 2- Law, State, and Class Struggle (17-35) and Ch. 10- Marxism, Law, Legal Theory and Jurisprudence (249-266)

Oct. 18 Foucauldian Critique

Alan Hunt & Gary Wickham (1994) Foucault and Law (Pluto) 1-71

Hunt, Alan (1995) Explorations in Law and Society: Toward a Constitutive Theory of Law (Routledge), Ch. 12 *Foucault’s Expulsion of Law: Toward a Retrieval* (267-300)

THE “LAW AND SOCIETY PARADIGM”

Oct. 25- Law and Society in the “New World”

Sarat, Austin (2008) “Vitality Amidst Fragmentation: On the Emergence of Post Realist Law and Society Scholarship” in Austin Sarat (ed.) Blackwell Companion to Law and Society (Blackwell), pp. 1-11

Garth, Bryant and Sterling, Joyce (1998) “From Legal Realism to Law and Society: Reshaping Law for the Last Stages of the Social Activist State,” Law & Society Review (v. 32), pp. 409–72

Thomas, Chantal (2008) “Re-Reading Weber in Law and Development: A Critical History of “Good Governance” Reform” Cornell Law School Research Paper (No. 08-034)

Nov. 1- Courts, Disputes and Power

Galanter, Mark (1974) “Why the Haves Come out Ahead? Speculations on the Limits of Legal Change” Law and Society Review (v. 9, n. 1), pp. 165-230

Felstiner, William; Richard Abel and Austin Sarat (1980-81) “The Emergence and Transformation of Disputes: Naming, Blaming, Claiming” Law and Society Review (v. 15, n. 3-4), pp. 631-654

Nov. 8- Everyday lives of the law

Sarat, Austin (1990) “The Law is All over: Power, Resistance and the Legal Consciousness of the Welfare Poor”, Yale Journal of Law and the Humanities (v.2), pp. 343-80

Yonucu, Deniz (2017) “The Absent Present Law: An Ethnographic Study of Legal Violence in Turkey” Social and Legal Studies (forthcoming)

Wacquant, Loic. (2003) “Toward a Dictatorship Over the Poor?": Notes on the Penalization of Poverty in Brazil”, Punishment & Society (vol. 5, no. 2), pp. 197-205

Nov. 15- Race, Ethnicity and the Law

Harris, Cheryl (1993) “Whiteness as property” Harvard Law Review (v. 106, n. 8), pp. 1707-1791

Bhandar, Brenna (2014) “Critical Legal Studies and the Politics of Property” Property Law Review (v. 3), pp. 186-194.

Bhandar, Brenna (2015) “Title by Registration: Instituting Modern Property Law and Creating Racial Value in the Settler Colony” Journal of Law and Society (v. 42, n. 2), pp. 253-282

POST COLONIAL AND GLOBAL APPROACHES

Nov. 22- Colonialism and Legal Impositions

Cohn, Bernard (1989) “Law and the Colonial State in India” in June Starr and Jane F. Collier (eds.) History and Power in the Study of Law: New Directions in Legal Anthropology (Cornell University Press) pp. 131-152

Merry, Sally (2000) “Colonizing Hawaii: The Cultural Power of Law” (Princeton), Chs. TBA

Nov. 29- An Entangled World of Laws and Identities

Coutin, Susan (2007) Nations of Emigrants: Shifting Boundaries of Citizenship in El Salvador and the United States (Cornell University), Chs. TBA

Dec. 6 Globalization of Law

Dezalay, Yves and Garth, Bryant (1995) Dealing in Virtue: International Commercial Arbitration and the Construction of a Transnational Legal Order, Chicago, University of Chicago Press, pp. 1-128

Dec. 13 Law, Science and the Social

Kirkland, Anna (2016) Vaccine Court: The Law and Politics of Injury (NYU Press), Chs. TBA